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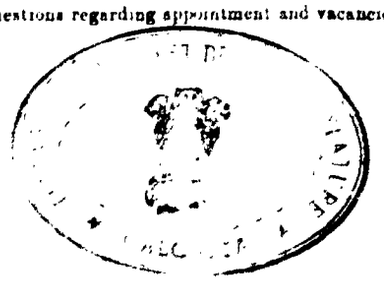

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Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Saturday, the 18th February, 1911, at 11 A.M.

Present:

The Hon'ble SIR EDWARD NORMAN BAKER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble MR. F. W. DUKE, C.S.I.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble C. J. STEVENSON-MOORE.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble B. C. MITRA.

The Hon'ble MR. G. W. KUCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. W. R. GOURLAY.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MAHARAJA SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble SIR FREDERICK DUMAYNE, KT.

The Hon'ble KUMAR SHIBA NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH.

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble RAJA RAJENDRA NARAYAN BHANJA DEO.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. C. SHORROCK.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN, BAHADUR.

The Hon'ble BABU MAHENDRA NATH ROY.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

OATH OR AFFIRMATION OF ALLEGIANCE.

1. The Hon'ble Mr. Collin, the Hon'ble Mr. Finnimore and the Hon'ble Babu Mahendra Nath Ray made the prescribed oath or affirmation of their allegiance to the Crown.

[*Babu Braja Kishor Prasad; Mr. Chapman.*]

The Hon'ble BABU BRAJA KISHOR PRASAD withdrew the following question of which he had given notice—

I.—(*a*) Is the Government aware that the promotions and confirmations of several members of the Provincial Judicial Service have not been published in the Gazette for about a year?

(*b*) Is there any special reason for this delay?

(*c*) If so, what is the reason?

TRANSFER OF SUBORDINATE JUDGES AND MUNSIFS FROM EASTERN BENGAL AND ASSAM TO BENGAL.

The Hon'ble BABU BRAJA KISHOR PRASAD asked:—

II.—(*a*) Will the Government be pleased to state whether it has any intention of taking Subordinate Judges and senior Munsifs from the Province of Eastern Bengal and Assam to fill up some of the present vacancies in this Province?

(*b*) If so, does the Government intend to place the services of a corresponding number of officers of corresponding grades of this Province at the disposal of the Government of Eastern Bengal and Assam?

The Hon'ble MR. CHAPMAN replied:—

(*a*) "Two Subordinate Judges have been transferred from Eastern Bengal and Assam to fill vacancies in this Province.

(*b*) The Government does not intend to place a corresponding number of officers of this Province at the disposal of the Government of Eastern Bengal and Assam."

The Hon'ble BABU BRAJA KISHOR PRASAD asked:—

III.—Having regard to the fact that a special grade of Rs. 500 has been created in the Judicial Service of the new Province, will the Government be pleased to consider that the transfer of Subordinate Judges and senior Munsifs from that Province would delay the promotion of the members of the Judicial Service in this Province and would cause great hardship to them?

The Hon'ble MR. CHAPMAN replied:—

"Before consenting to the transfer of Subordinate Judges from Eastern Bengal and Assam, the Government carefully considered the interests of the members of the Judicial Service of this Province."

PENSIONS OF JUDICIAL OFFICERS IN THE PROVINCIAL SERVICE.

The Hon'ble BABU BRAJA KISHOR PRASAD asked:—

IV.—(*a*) Will the Government be pleased to state whether a superannuation or an invalid pension, granted to a Judicial officer in the Provincial Service in Bengal, is liable to reduction if his substantive and permanent appointment begins after he has attained the age of 30 years?

(*b*) Will the Government be pleased to state whether persons appointed to a Judicial office in the Provincial Service in Madras are exempted from any such rule?

(*c*) Will the Government be pleased to state whether it is not a fact that Judicial officers in Bengal who are recruited from the Bar are mostly made permanent after they have attained the age of 30 years, like the same class of officers in Madras?

[*Mr. Chapman; Dr. Abdullah-al-Mamun Suhrawardy; Mr. Stevenson-Moore.*]

(*d*) Will the Government be pleased to state whether it intends to take steps to exempt the Subordinate Judicial officers of Bengal from the operation of the said rule?

(*e*) If not, will the Government be pleased to state its reasons?

The Hon'ble MR. CHAPMAN replied:—

(*a*) "The answer is in the affirmative.

(*b*) This Government has no information at present, but will inquire.

(*c*) Somewhat over fifty per cent. of the Judicial Officers in Bengal recruited from the Bar attain the age of 30 years before they obtain permanent appointments. This Government has no information to enable a reply to be given to the portion of the question relating to the Presidency of Madras.

(*d*) & (*e*) This Government will consider whether the Government of India should be moved to make the exemption proposed."

APPOINTMENT OF MUSSALMAN SUB-INSPECTORS OF POLICE.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY asked:—

V.—Will the Government be pleased to state—

(*i*) the number of duly qualified Mussalman candidates for appointment as Sub-Inspector of Police who have been recommended, during the last five years, by the various District Committees in the Burdwan, Presidency and Orissa Divisions;

(*ii*) the number of appointments actually given to such Mussalman candidates by the Inspector-General of Police at the final selection during that period; and

(*iii*) the proportion which these appointments bear to the total number of appointments?

The Hon'ble MR. STEVENSON-MOORE replied:—

"The figures for the year 1906 are not available, the records having been destroyed in accordance with the rules. The information required by the Hon'ble Member for the years 1907, 1908, 1909 and 1910 is as follows:—

(*i*) The number of duly qualified Mussalman candidates for appointment as Sub-Inspector of Police who have been recommended, during the last four years, by the various District Committees in the Burdwan, Presidency and Orissa Divisions is 71.

(*ii*) The number of appointments actually given to such Mussalman candidates by the Inspector-General of Police at the final selection during that period is 47.

(*iii*) The proportion of appointments of Mussalmans to the total number of appointments is 28·5 per cent."

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY asked:—

VI.—Will the Government be pleased to state the number of Mussalman candidates recommended by the District Committee of Howrah during the last seven years for appointment as Sub-Inspector of Police and the number of candidates actually appointed by the Inspector-General of Police during that period?

The Hon'ble MR. STEVENSON-MOORE replied:—

"The number of Mussalman candidates recommended by the District Committee of Howrah in the years 1904, 1905, 1906 is not known, the papers having been destroyed according to rule. In the four years 1907–1910 the number of Mussalman candidates recommended by the District Committee was 4 (of whom 2 were not qualified under the rules).

In the seven years 1904 to 1910 the number of such candidates actually appointed was 3, 1 in 1906 and 2 in 1907."

[*Dr. Abdullah-al-Mamun Suhrawardy; Mr. Stevenson-Moore.*]

SUB-DEPUTY COLLECTORS.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY asked :—

VII.—(*a*) Has the attention of the Government been drawn to a paragraph which appeared in the editorial columns of the *Bengalee* of 15th October, 1910, headed "Sub-Deputy Collectors"?

(*b*) Will the Government be pleased to state why Sub-Deputy Collectors, on promotion to the rank of Deputy Collectors, are styled Probationary Deputy Collectors?

(*c*) Is it not the fact that Sub-Deputy Collectors, on first appointment as Probationers, have to undergo a course of training and to pass departmental examinations which are the same as for Probationary Deputy Collectors?

(*d*) Are these Probationary Deputy Collectors (as promoted Sub-Deputy Collectors are now called) again subjected to a training which they had already undergone?

(*e*) If not, what is the object of calling them Probationers?

(*f*) Is the Government aware that, in the province of Eastern Bengal and Assam, Sub-Deputy Collectors on promotion are given sub. *pro tem.* appointments as Deputy Collectors of the last grade?

(*g*) Is it not the case that up till 1906 Sub-Deputy Collectors on promotion were appointed sub. *pro tem.* to the last grade of Deputy Collectors?

(*h*) What has been the average duration of the probationary period for promoted Sub-Deputy Collectors for the last three years?

The Hon'ble MR. STEVENSON-MOORE replied :—

(*a*) "The answer is in the affirmative.

(*b*) The Provincial Civil Service is a distinct service from the Subordinate Civil Service, and is used to fill posts which require higher abilities and higher qualifications. Sub-Deputy Collectors, on promotion to the Provincial Civil Service, are required by the rules to undergo a period of probation. Since probationers, recruited direct, must necessarily be subjected to this test and since all probationers previously enrolled must be furnished with appointments before provision is made for any newly appointed, it follows that the only alternatives open to Government are to appoint Sub-Deputy Collectors on probation, as now, or to refrain from promoting them until vacancies occur. Government recognises that the probationary period has, in some occasions, been unduly prolonged, and it is hoped that when the rules of appointment come under revision in 1912, some remedy will be found for this defect.

(*c*) The answer is in the affirmative.

(*d*) The answer is in the negative.

(*e*) The Hon'ble Member is referred to the answer to question (*b*) above.

(*f*) Government has no official information on the subject.

(*g*) Prior to 1905 Sub-Deputy Collectors on promotion were appointed sub. *pro tem.* to the last grade of Deputy Collectors. The present system was introduced in 1905, and has been in force ever since, except in 1906, when for exceptional reasons a departure was made from it. The appointment rules will be liable to revision in 1912, and the question, whether promoted Sub-Deputy Collectors should still undergo a period of probation, will then be considered.

(*h*) None of the officers appointed in 1909 have yet been provided with sub. *pro tem.* appointments. The average duration of the period of probation of those appointed in 1907 and 1908 was one year and five months."

[*Maharaj-Kumar Gopal Saran Narayan Singh; Mr. Cumming; Babu Deba Prasad Sarbadhikari.*]

RE-SURVEY OF ESTATES IN BIHAR.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH asked:—

VIII.—(*a*) Will the Government be pleased to state whether there is any truth in the rumour that it is proposed to re-survey the estates in Bihar that have already been surveyed?

(*b*) If so, what arrangement is to be made for the cost of the second survey, and will such arrangement allow for the cost paid by the proprietors of the estates at the time of the first survey?

The Hon'ble MR. CUMMING replied:—

(*a*) "It is in contemplation to bring the record of rights in the Bihar districts up to date on the expiry of fifteen years from the final publication of the original record, and to commence operations, by October 1912, in areas in respect of which fifteen years or more have elapsed since the existing records were framed.

(*b*) It is not at present possible to anticipate what orders will finally be passed on the subject of the recovery of the costs of the operations."

TRANSFER OF SUBORDINATE JUDGES FROM EASTERN BENGAL AND ASSAM TO BENGAL, AND IMPROVEMENT OF THE STATUS AND PROSPECTS OF THE SUBORDINATE JUDICIAL SERVICE.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

IX.—(*a*) Has the attention of the Government been called to the statement in the *Bengalee*, dated the 4th January, 1911 (page 6, column 6, under heading "Noakhali Notes—From our own correspondent, Noakhali," dated 29th December), to the effect that Babu Jogendra Nath Bose, Subordinate Judge, has been transferred to Midnapore?

(*b*) Will the Government be pleased to state whether that statement is correct or not?

(*c*) If the statement is correct, would it please the Government to state the circumstances under which, and the reason for which, a member of the Eastern Bengal and Assam Subordinate Judicial Service came to be appointed as a member of the Bengal Service?

(*d*) Would it also please the Government to state whether, since the separation of the Eastern Bengal and Assam *cadre* of the Subordinate Judicial Service from that of Bengal, any other members of the former have been appointed members of the latter service; and, if so, would the Government please state the number of such appointments, the time when they were made, and the circumstances under which, and reasons for which, such appointments were made?

(*e*) Is it the intention of the Government to continue to make such appointments in the future, and, if not, what steps are proposed to be taken for preventing them?

(*f*) Would it please the Government to state what steps are being taken for improving the status and prospects of the members of the Subordinate Judicial Service on the lines raised in the Council, in the Press, and generally?

"He said—The questions need not be answered except in so far as they had not already been answered in replying to questions II and III put by the Hon'ble Babu Braja Kishor Prasad.

The Hon'ble MR. CHAPMAN replied as follows:—

(*c*) The Subordinate Judicial Service was divided in January, 1909, into two *cadres*—one for Eastern Bengal and the other for this province. The two *cadres* were not, however, prepared with strict regard to the relative

seniority of the officers in each and a considerable excess of senior officers remained in this province. It was decided that, after the separation, officers should be transferred from one province to the other only in exceptional cases, in order to remedy serious inequality in the rate of promotion to the grade of Subordinate Judge. The proportion of officers in that grade in Eastern Bengal is considerably smaller than the proportion in this province, and, both owing to this cause and to the higher average seniority of the officers in this province, vacancies here have been more numerous, and the flow of promotion has been more rapid. In August, 1910, there were six vacancies in the grade of Subordinate Judge in this province, as compared with two only in Eastern Bengal and Assam. The High Court accordingly recommended the transfer of three senior officers to Bengal. This Government, after careful consideration of the interests of the Subordinate Judicial Service of Bengal, agreed to the transfer of two Subordinate Judges (one of them is Babu Jogendra Nath Bose) from Eastern Bengal and Assam, subject to the condition that replacement should be made if inequality in the rate of promotion adverse to Bengal occurred in the future.

(*d*) Since the separation of the Eastern Bengal and Assam *cadre* of the Subordinate Judicial Service, one other Subordinate Judge has, on the recommendation of the High Court, been transferred to Bengal. This was in May, 1910. The reasons for this transfer were similar to those stated in reply to question (*c*). In the result the officers of this province are not in any worse position than they would have been if no separation of the *cadre* had been effected.

(*e*) The Government has no intention at present to continue to make such appointments, but can give no undertaking other than that the interests of the members of the Provincial Judicial Service in this province will be very carefully considered before further transfers of Subordinate Judges from Eastern Bengal and Assam are consented to.

(*f*) The Hon'ble Member is referred to the statement made by the Hon'ble Mr. Gourlay in Council on the 30th August, 1910, in reply to the resolution which he moved on the subject. No further steps are being taken at present."

STUDY-LEAVE FOR ASSISTANT SURGEONS.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

X.—(*a*) Has the attention of the Government been called to an editorial paragraph in the *Bengalee* of the 31st January, 1911 (page 5, column 3), to the effect that Dr. Joti Lal Sen, M. B., late Demonstrator of Biology, Calcutta Medical College, who has recently passed the I. M. S. examination in England, had applied to Government for Study Leave for studying in England and was refused such leave, whereupon he resigned his appointment and had to pay a penalty of Rs. 500?

(*b*) Would it please the Government to state whether the facts are substantially correct, and, if so, would it also please the Government to state when Dr. Joti Lal Sen applied for and was refused such leave, and when he resigned his appointment?

(*c*) Would it please the Government to make known the reasons for such refusal, and whether there were no circumstances under which the penalty could have been remitted or the leave granted?

(*d*) Would it please the Government to state whether there was any difficulty or delay in granting Dr. Joti Lal Sen the departmental certificate necessary to be produced before he could be admitted to the I. M. S. examination, and, if so, what the causes of such delay were?

(*e*) Would it please the Government to state whether any other applications have been made by Assistant Surgeons for such Study Leave, and how they have been dealt with?

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari.*]

(*f*) Is it intended to reconsider the question of Study Leave and of leave in general to officers desiring to proceed to England for study, and is it in contemplation to revise the rules regarding the same?

(*g*) Do the Government intend to consider whether the penalty in cases of *bonâ fide* applications for Study Leave may not be remitted, when the Government does not see its way to granting such leave and the applicants are obliged to resign their appointments in consequence?

The Hon'ble MR. WHEELER replied:—

(*a*) "The Local Government has seen the paragraph in the *Bengalee* newspaper referred to.

(*b*) The facts stated are substantially correct, with the exception that it is inaccurate to speak of Study Leave as a form of leave which is recognised in the case of officers of the class of Civil Assistant Surgeons. Babu Joti Lall Sen, after a service under Government of two years and one month, applied on the 22nd August, 1910, for two years' leave with effect from the 1st September or any subsequent date. The leave was refused on the 5th September, and he resigned on the 22nd September with effect from the 1st October.

(*c*) The leave was refused for the reason that Babu Joti Lall Sen was admitted to Government service with the intention that he should be employed as a Civil Assistant Surgeon. As such he had only worked for two years, and it is unusual, and unfair to others in any Government service, to give long leave after so short a period of duty. Moreover, during these two years Babu Joti Lall Sen had worked as Demonstrator in the Biological Department of the Medical College, Calcutta, which incidentally constitutes a valuable training at the public expense. Upon entering the service, Civil Assistant Surgeons execute an agreement binding themselves to serve Government as such for five years, under a penalty of Rs. 500 in default. Since Babu Joti Lall Sen failed to comply with the conditions of this bond the penalty was rightly exacted, and there were no special circumstances justifying its remission.

(*d*) Babu Joti Lall Sen applied for the departmental certificate required by a candidate for the I. M. S., together with his request for leave. As his leave was refused, it was understood that the certificate was not required, and he did not repeat his application when tendering his resignation. His father asked for the certificate on his behalf on the 19th December, 1910, and the application was forwarded to the Director-General on the 20th December.

(*e*) Within the last six years there have been nine cases in which leave has been asked for by Civil Assistant Surgeons, apparently with the intention of studying in England. In one instance, the officer concerned had over 11 years' service at the time of application, in another, nearly four years, in four, between two and three years, and in three cases, less than two years. Leave was granted in five instances and refused in four.

(*f*) As already stated, Study Leave is not at present recognised in the case of Civil Assistant Surgeons, and there is no present intention of considering its introduction, or the revision of the leave rules generally. It has been decided that applications for long leave, without pay, will not ordinarily be granted in the case of Civil Assistant Surgeons of less than five years' service. Other cases will be judged upon their merits.

(*g*) Government has no such intention."

IMPROVEMENT OF THE PROSPECTS OF ASSISTANT SURGEONS.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

XI.—(*a*) Would it please the Government to state what has been done regarding the improvement of the prospects of Assistant Surgeons since the recent sanction towards such improvement, and when the sanctioned proposals for improvement will be given effect to?

[*Mr. Wheeler; Maulvi Saiyid Muhammad Fakr-ud-din; Babu Deba Prasad Sarbadhikari.*]

(*b*) Is it in contemplation to fully exempt Demonstrators and Assistant Professors in the Medical College and Medical Schools, Assistant Surgeons in the Chemical Examiner's Department, and such other Medical Officers as are in touch with educational work, from the Septennial examination; and is it intended to revise the rules about compelling officers to submit to such examination?

(*c*) Has the question of allowances to Assistant Surgeons in the Chemical Examiner's Department been disposed of, and, if so, how?

(*d*) Would it please the Government to state how many Assistant Surgeons have been promoted to Civil Surgeoncies, and how many more are proposed to be so promoted?

The Hon'ble Mr. Wheeler replied:—

(*a*) "The question of the improvement of the prospects of the service of Civil Assistant Surgeons is awaiting the orders of the Government of India and the Secretary of State.

(*b*) No case has as yet been made out for a general revision of the rules governing the septennial examinations of Civil Assistant Surgeons. It has been decided that Demonstrators need not ordinarily be exempted from the liability to appear at these examinations, but no case of the exemption of an Assistant Professor has as yet been submitted to Government for orders. The case of Assistant Surgeons in the Chemical Examiner's Department is governed by Government of India Resolution No. 3—10, dated the 6th January, 1904, and it has not so far been shown that any modification of these orders is required.

(*c*) The Government of India has sanctioned a scale of allowances for Assistant Surgeons in the Chemical Examiner's Department of Rs. 50 rising by biennial increments of Rs. 10 to Rs. 150, subject to the condition that these officers are debarred from private practice and the medical charge of hostels. It has been left optional with the present Assistant Surgeons to accept these terms or not. Three Assistant Surgeons have agreed to these conditions, and orders have issued admitting them to the benefits of the scheme.

(*d*) On the 1st February, 1911, two Assistant Surgeons held permanent appointments as Civil Surgeons, and two were officiating in such posts. It is contemplated that seven Civil Surgeoncies will eventually be given to Civil Assistant Surgeons, but as such promotion depends partly upon the retirement of officers of the Uncovenanted Medical Service, no statement can be made as to when these posts will be thus allotted."

The Hon'ble Maulvi Saiyid Muhammad Fakr-ud-din withdrew the following question of which he had given notice:—

XII.—(*a*) Will the Government be pleased to state whether it is likely that the provision in the current year's Budget for the improvement of the prospects of Civil Assistant Surgeons will be utilized for that purpose?

(*b*) Out of four Civil Surgeoncies allotted to the Civil Assistant Surgeons in Bengal, only one has so far been given to them. Will the Government be pleased to state when the remaining three Civil Surgeoncies will be given to them?

PROVINCIAL EDUCATIONAL SERVICE.

The Hon'ble Babu Deba Prasad Sarbadhikari asked:—

XIII.—(*a*) Would the Government be pleased to state (*i*) how many posts are vacant in the different grades of the Provincial Educational Service, (*ii*) how long they have been vacant, (*iii*) for what reasons, and (*iv*) when it is intended to fill them up?

(*b*) Would it please the Government to make a similar statement regarding the Lower or Subordinate Educational Service?

[*Mr. Cumming; Babu Deba Prasad Sarbadhikari.*]

(*c*) Would the Government be pleased to state whether they have under consideration any proposal to give suitable acting allowances to such members of the Provincial and Subordinate Services as are intended to be promoted to the higher services or to higher appointments in the same service?

The Hon'ble MR. CUMMING replied:—

(*a*) (*i*) "There are twelve vacancies in the Provincial Educational Service.

(*a*) (*ii*) and (*iii*) Seven of these vacancies have come into existence since 6th October, 1910; the remaining five vacancies are held in reserve for members of the superior inspecting agency, and have never yet been filled. The seven vacancies referred to above are awaiting departmental proposals for promotions in the service. The remainder cannot be filled until after the new officers of the inspecting staff have completed five years' service with effect from the dates of their appointment in 1907.

(*a*) (*iv*) Proposals for promotions to the seven vacancies in the Provincial Educational Service are expected this month. No proposals in respect of the five remaining vacancies are anticipated before 1912.

(*b*) There are 47 vacancies in the Subordinate Educational Service to be filled by ordinary grade promotions. They have come into existence since December, 1909, the delay being due to the preparation of detailed proposals for the inclusion within the grades of the Subordinate Educational Service, of the Sub-Inspectors who were transferred on 1st January, 1906, to service under Government. Effect was given last month to these proposals, and it is hoped that the ordinary grade promotions will shortly be made. There are also 80 vacancies to be filled by the promotion of Deputy and Sub-Inspectors who were appointed in connection with the scheme for strengthening the inspecting staff of Bengal. These vacancies cannot be filled until the officers in question have completed four years' service.

(*c*) Under the provisions of Article 140 of the Civil Service Regulations, members of the Provincial Educational Service and Subordinate Educational Service are not entitled to officiating promotion in higher grades of their respective services.

Promotions from the Subordinate to the Provincial Educational Service have already been made."

SUBORDINATE EDUCATIONAL SERVICE.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

XIV.—Would it please the Government to state—

(*a*) how many of the posts in the Subordinate Educational Service are reserved for strengthening the Inspecting Agency?

(*b*) how many of such appointments have been filled?

(*c*) how many remain to be filled?

(*d*) when Sub-Inspectors of Schools under District Boards were transferred to Government service?

(*e*) when their Provincialisation was sanctioned?

(*f*) whether their names have been entered in the service rolls, and, if so, what places have been assigned to them in the service?

(*g*) if they have not been so entered, when is it proposed to enter them, and what will be their place in the *cadre*, or, is it intended to have a separate *cadre* for them?

(*h*) whether their services under the District Boards be taken into consideration in judging their claims regarding their places in the service rolls and regarding promotion?

(*i*) whether these Sub-Inspectors have suffered any loss owing to delay in entering their names as members of the Subordinate Educational Service, and is it proposed to compensate them in any way?

[*Mr. Cumming ; Babu Deba Prasad Sarbadhikari ; Mr. Butler.*]

The Hon'ble Mr. Cumming replied :—

(*a*) "135 posts were added to the Subordinate Educational Service in connection with the scheme for strengthening the inspecting staff of Bengal.

(*b*) All these posts have been filled.

(*c*) None.

(*d*) On 1st January, 1906.

(*e*) In January, 1909.

(*f*) Their names have not yet been entered in the Service Rolls, but the fact of their admission to the Subordinate Educational Service was notified on the 17th January, 1911.

(*g*) It is impossible to state definitely at present what their places in the Subordinate Educational Service *eventually* will be, or whether they will be placed in a separate *cadre* of Inspecting officers.

(*h*) The salary drawn by these officers under the District Boards has been taken into account in determining their relative seniority in Government service. The list published in the Notification dated 17th January, 1911, shows the relative positions of these officers in the service.

(*i*) The Sub-Inspectors have suffered no greater loss than that sustained by officers in any other branch of Government service in which promotions have necessarily been delayed—a fact which is always taken into consideration in fixing the dates from which such promotions are to take effect."

FLOODS IN THE BEGUA HANA TRACTS.

The Hon'ble Babu Deba Prasad Sarbadhikari asked :—

XV.—(*a*) Will the Government be pleased to state what has been done for the prevention of floods in the Begua Hana tracts since the last Budget debate regarding the matter ?

(*b*) If any scheme has been prepared for relieving the area, will the Government be pleased to lay the same on the table ?

(*c*) If no scheme has been yet prepared, would the Government be pleased to state when it is likely to be prepared, and what lines it is intended that the scheme should take ?

The Hon'ble Mr. Butler replied :—

(*a*) "Certain preliminary schemes have been prepared and inquiries regarding them are being carried out.

(*b*) & (*c*) A preliminary scheme for diverting the low floods of the Damodar has been prepared, whereby it is estimated that the cost will be about 2 lakhs, with a subsequent eventual cost of 1½ to 2 lakhs more. To attempt to divert the high floods from the Begua Channel would result in the embankments lower down, on both sides of the Damodar river, being breached. This scheme is now with the Commissioner of the Division, with a view to consider the utility of the project and to ascertain whether the parties to be benefited should meet the whole or any part of the expenditure. To facilitate the escape of the high floods into the Rapnarain river, a scheme estimated to cost Rs. 65,000, provided that no compensation is necessary, has been prepared for retiring the embankments on both sides of the Buxi Khal. The question relating to the need, or otherwise, of compensation is being considered by the Divisional Commissioner. At this stage it is not considered to be likely to serve any useful purpose to lay these schemes on the table."

[*Maulvi Saiyid Muhammad Fakr-ud-din; Mr. Stevenson-Moore.*]

STATUTORY CIVILIANS.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked:—

XVI.—(*a*) Will the Government be pleased to state why Statutory Civilians do not get promotion to Divisional Commissionerships and High Court Judgeships?

(*b*) Is there anything in the Statute debarring them from such promotion?

(*c*) Is it or is it not a fact that juniors in service have got promotion, temporary or permanent, to Divisional Commissionerships or High Court Judgeships to the entire exclusion of Statutory Civilians?

The Hon'ble MR. STEVENSON-MOORE replied:—

(*a*) "Promotion to the high offices named is regulated by selection in the case of members of the Indian Civil Service and Statutory Civilians alike. Moreover, the promotions of Statutory Civilians are governed by special rules. A Statutory Civilian does not belong to any organised service. Each step that he may gain is treated as a fresh appointment under the rules framed under the Statute. His claims to advancement depend entirely on the merit and ability that he may display. Under the application of these principles it has not as yet been possible to select any Statutory Civilian to fill the high offices named.

(*b*) There is no legal bar to the appointment of Statutory Civilians to the offices named.

(*c*) It is a fact that Statutory Civilians have been passed over for promotion to Divisional Commissionerships in favour of juniors in service. Members of the Indian Civil Service have similarly been passed over. It is not a fact that any Statutory Civilian has been passed over for High Court Judgeships in favour of a member of the Indian Civil Service of lower standing."

JUNIOR SECRETARYSHIP TO THE BOARD OF REVENUE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked:—

XVII.—(*a*) Will the Government be pleased to state why the Junior Secretaryship to the Board of Revenue has been filled by a Covenanted Civilian instead of by a member of the Provincial Executive Service?

(*b*) Is it or is it not a fact that this post has been reserved for members of the Provincial Executive Service?

The Hon'ble MR. STEVENSON-MOORE replied:—

(*a*) "The Junior Secretaryship to the Board of Revenue has been filled by a Covenanted Civilian instead of by a member of the Provincial Executive Service because no officer of the latter Service was available possessing the exceptional qualifications which are requisite for the proper discharge of the duties of this post, and because such a selection was necessary in the interests of the public service.

(*b*) It is not the fact that this post has been reserved for members of the Provincial Executive Service. The effect of the rules governing appointment to it is that members of the Provincial Executive Service are eligible, provided that they possess the special qualifications required. Now that the Board of Revenue consists of one Member only, it is particularly necessary that both the Secretaries to the Board should be officers possessing, in a marked degree, the special aptitude and ability required for the efficient discharge of their duties."

[*Maulvi Saiyid Muhammad Fakr-ud-din ; Mr. Stevenson-Moore.*]

UNDER-SECRETARYSHIP TO THE GOVERNMENT OF BENGAL.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked :—

XVIII.—(*a*) Will the Government be pleased to state whether any Under-Secretaryship to the Government of Bengal is held by any member of the Provincial Executive Service ?

(*b*) If not, will the Government be pleased to state the reasons ?

(*c*) Is it a fact that one of these posts has been reserved for the members of that service ?

The Hon'ble MR. STEVENSON-MOORE replied :—

"The Hon'ble Member is referred to answer to Question No. XVII. One Under-Secretaryship to Government has been declared open to members of the Provincial Civil Service on the same conditions as the Junior Secretaryship to the Board."

ASSISTANT SUPERINTENDENTS AND DEPUTY SUPERINTENDENTS OF POLICE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked :—

XIX.—(*a*) Will the Government be pleased to state why the grading of pay, and the number of appointments, of Assistant Superintendents of Police differ from those of the Deputy Superintendents of Police ?

(*b*) Is it a fact that they rank equally in position and work ?

(*c*) Is it a fact that the nature of the work of Assistant Superintendent of Police and Deputy Superintendent of Police is identical ?

(*d*) If so, will the Government be pleased to state why Deputy Superintendents of Police draw second class travelling allowance and why Assistant Superintendents of Police draw first class travelling allowance ?

The Hon'ble MR. STEVENSON-MOORE replied :—

(1) "It is not the fact that Assistant Superintendents of Police and Deputy Superintendents of Police rank equally in position and work. The position and functions of Assistant Superintendents and Deputy Superintendents respectively are set out in Home Department Resolution Nos. 248 59, dated the 21st March, 1905, which was published in the Gazette of India for general information and widely republished in the Press. A copy of paragraph 33 of the above-cited Resolution dealing with the constitution of the service of Deputy Superintendents is laid on the table for information. It will be observed that while the Resolution describes the functions and departmental status of the two classes of officers as similar, it indicates at the same time the essential distinction between them, *viz.*, that Deputy Superintendents are members of a Provincial Service, whereas Assistant Superintendents belong to an Imperial Service. It is this fundamental distinction which differentiates the status and the functions, and regulates the pay and the number of appointments of the two classes of officers. The primary object in recruiting Assistant Superintendents, as members of the Imperial Service, is to secure fully qualified officers for the post of District Superintendent and the higher offices in the Police Department which the Commission held it was essential should be filled for the most part by Imperial officers. The number of assistants is accordingly limited to what is necessary to supply fully trained men to these higher offices. The number of Assistant Superintendents of the Imperial Service, however, is not sufficient for the requirements of police work. The Superintendent in the majority of districts requires one or more assistants to help him in the discharge of his duties of control and supervision, and to relieve him of the routine of office work, so that he may be free to tour and become personally acquainted with his officers and their work, and with the people and their interests. Accordingly the additional number of assistants required is supplied by Deputy Superintendents, forming a Provincial Service. 'It

[*Maulvi Saiyid Muhammad Fakr-ud-din; Mr. Cumming.*]

follows that while the work of Assistant Superintendents and Deputy Superintendents is to a large extent identical, the functions of the Assistant Superintendent are primarily determined by the fact that he is regarded as under training to fill the post of Superintendent. The Deputy Superintendent is not primarily recruited to fill the post of Superintendent, and consequently his work, in the words of the Resolution above cited, is "to help the Superintendent in the discharge of his duties of control and supervision and to relieve him of the routine of office work so that he may be free to tour about his district." In other words, the distinction between the functions and status of Assistant and Deputy Superintendent is the same as that which exists between officers of the Imperial and Provincial Services in the general administration or in any other department. The functions of an Assistant Magistrate, so far as magisterial work goes, are identical with those of a Deputy Magistrate, those of a Covenanted Deputy Collector with those of a Deputy Collector of the Provincial Service. The status of the Junior Civilian, however, is superior, as he is recruited with a view to filling higher offices, and his functions as a whole are coloured by the same consideration.

(2) The pay of Deputy Superintendents is fixed on the analogy of the other Provincial Services and is regulated by the same considerations, *viz.*, that it is just, that when Europeans have to be brought to India to fill certain appointments, their pay should be fixed at the higher rate necessary to enable them to meet their expenses both in India and in England, that Indians of the best class will be attracted by the lower scale of pay, and that the economy resulting from its adoption, while desirable in itself, also serves as an inducement to Government to employ them wherever possible without injury to the public service.

(3) For the same reasons, *i.e.*, on the analogy of the other Provincial Services, Deputy Superintendents of Police draw second class travelling allowance."

EDUCATION IN BIHAR.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked:—

XX.—Will the Government be pleased to state what action has been taken on the representations made by the Bihar Guardian Association of Patna in paragraphs 3 and 11 of their memorial, dated 12th August, 1908, forwarded by the Divisional Commissioner of Patna under letter No. G.—593-3, dated 22nd August, 1908, and on the suggestions made by the Committee, consisting of the Director of Public Instruction and others, formed for the purpose of inquiry into the grievances relating to the education imparted in Bihar?

The Hon'ble MR. CUMMING replied:—

"The following resolutions of the Committee were forwarded by Government to the Calcutta University:—

(*a*) that candidates should be required to give their roll-numbers only and not their names on their answer papers; and

(*b*) that examiners should be instructed not to demand too high a standard in respect of the Matriculation Examination during the first two years of the new system.

In January, 1909, the Syndicate replied that they were unable to accept the recommendations contained in the first resolution; but stated with regard to the second resolution that care would be taken that no unreasonably high standard should be set up for the first examinations under the new regulations."

RESTRICTIONS IMPOSED UPON STUDENTS OF THE PATNA LAW COLLEGE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN asked:—

XXI.—(*a*) Is it or is it not a fact that there is a restriction imposed upon the students of the Patna Law College so that they cannot accept any remunerative appointments during the course of their study of law?

[*Mr. Cumming; Maulvi Saiyid Muhammad Fakr-ud-din; Mr. Wheeler.*]

(*b*) Does such a restriction exist in other law colleges of Bengal?

(*c*) If not, will the Government be pleased to state the reasons for introducing such a restriction in the case of students of the Patna Law College?

The Hon'ble Mr. Cumming replied:—

(*a*) "It is a fact that students of the Patna Law College are prohibited from accepting remunerative work during the course of their study of law.

(*b*) It is believed that the prohibition is not in force in other law colleges.

(*c*) The restriction was imposed on the recommendation of the local authorities at the time the college was established. The object presumably was to ensure that the student's attention during the short period of his study should be devoted to the subject of his profession. The question of the continuance of the rule, as a condition of study at Patna College, is at present engaging the consideration of the local authorities."

MOHARRAM HOLIDAYS.

The Hon'ble Maulvi Saiyid Muhammad Fakr-ud-din asked:—

XXII.—(*a*) Is the Government aware that the officers of the Provincial Civil Service, as well as the public having connection with Law Courts, are very desirous of having the 11th day of *Moharram* included as a Gazetted holiday, in the annually sanctioned List of Holidays issued in the beginning of each year by the Local Government, and by the Hon'ble High Court of Calcutta, respectively, and that a memorial to this effect was submitted, as I understand, to the Government, through some of the Bihar District officers, on behalf of the members of the Provincial Service generally, of the Bar, and of suitors and others?

(*b*) Will the Government be pleased to state what orders were passed upon the memorial in question?

The Hon'ble Mr. Wheeler replied:—

(*a*) "At present the 6 to 10 days of the *Muharram* inclusive are granted as holidays to the Muhammadan employees of Government. In January, 1910, two memorials were presented by certain members of the Bhagalpur and Bankipur Bars, asking that the 11th day also should be observed as a holiday, in order that officers might have that day available for return from their homes after performance of their religious duties on the preceding five days.

(*b*) "After careful consideration of the matter the Local Government did not consider it desirable to accede to the request of the memorialists."

MUHAMMADAN HOLIDAYS IN THE EDUCATIONAL DEPARTMENT.

The Hon'ble Maulvi Saiyid Muhammad Fakr-ud-din asked:—

XXIII.—Is the Government aware that in the Educational Department the Muhammadan students and teachers have grievances as to there being no holidays on some Muhammadan festivals and a shortening of the number of holidays on other Muhammadan festivals?

The Hon'ble Mr. Cumming replied:—

"It has been brought to the notice of Government that there are certain Muhammadan festivals and sacred days other than those which are recognised as public holidays. A reply has already been given to the effect that as a general rule Muhammadan teachers and students are, with the permission of the head of the institution to which they belong, allowed to absent themselves on all days on which a due regard to the ceremonies and observances of their religion prevents their attendance. It is not practicable to close all public educational institutions on the occasion of Muhammadan festivals and sacred days which are not at present recognised as public holidays."

[*Rai Baikuntha Nath Sen Bahadur; Mr. Wheeler.*]

DISPOSAL OF THE INCOME FROM THE FERRY SERVICE BETWEEN THE SERAMPUR MUNICIPALITY AND THE SOUTH BARRACKPORE MUNICIPALITY.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR asked :—

XXIV.—(*a*) Will the Government be pleased to state whether it has any intention to divide equally the income from the Ferry service now existing between Khardah (Rashkhola), Rishra, Barrackpur (Bowbazar) and Bullubhpur between the Serampur Municipality on the right bank of the river, now solely enjoying the income, and the South Barrackpore Municipality, on the opposite bank, which gets no share?

(*b*) Has it come to the notice of the Government that the South Barrackpore Municipality has to maintain the ferry ghat roads on the east bank of the river at considerable expense?

The Hon'ble MR. WHEELER replied :—

(*a*) "Half the income from the Mohesh, Rishra and Konnaggar ferries (to which it is understood that the Hon'ble Member refers) has been enjoyed by the Serampore Municipality since 1866. The statement regarding the Bullubhpur ferry is not understood, since the request of the Municipality, made in 1896, for a share of its income was refused. No reason has been shown for depriving the Serampore Municipality, in favour of that of South Barrackpore, of an item of revenue of such long standing.

(*b*) In 1886 the South Barrackpore Municipality asked for a share in certain ferry revenues on the ground that they were put to expense in the upkeep of the approach roads. The application was then refused."

THE PIG-NUISANCE IN CERTAIN MUNICIPALITIES IN THE PRESIDENCY DIVISION.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR asked :—

XXV.—(*a*) Has it come to the notice of the Government that the pig-nuisance is growing day by day in several Municipalities in the Presidency Division, especially in the Naihati Municipality, to the great annoyance of, and loss to, the Hindus and Muhammadans alike?

(*b*) If it has, will the Government be pleased to state whether it intends to take any immediate steps for the prevention of the nuisance?

(*c*) If it has not, will the Government be pleased to state whether it will cause an inquiry to be made as regards the existence of the nuisance?

The Hon'ble MR. WHEELER replied :—

(*a*) "It has been ascertained that in 1905 the Chairman of the Naihati Municipality addressed the Divisional Commissioner regarding the inadequacy of the provisions in the existing Municipal Act for the proper control of the nuisance caused by pigs being kept within municipal limits. The question has recently been raised again by the same Municipality, and it appears that similar complaints have been made in several other localities. There is no evidence, however, that the nuisance is increasing.

(*b*) Section 265 of the Bengal Municipal Act, 1884, requires pigs to be kept in properly fenced stys and prescribes a limit of ten animals as the maximum to be kept in any place without the written permission of the Municipal Commissioners. The ordinary provisions of the Cattle Trespass Act are also applicable. Government is not of opinion that any further immediate action is called for, although the point might be considered when the Municipal Act next comes under amendment.

(*c*) It is not considered that there is a case for a special inquiry."

[*Rai Baikuntha Nath Sen; Mr. Cumming; Mr. K. B. Dutt.*]

SUB-INSPECTORS OF SCHOOLS.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

XXVI.—Will the Government be pleased to state what has been decided as regards the posting of the Sub-Inspectors of Schools who were formerly employed under District Boards and were transferred to Government service with effect from 1st January, 1906?

The Hon'ble Mr. Cumming replied:—

"This question has already been dealt with in the answers given to the questions of the Hon'ble Babu Deba Prasad Sarbadhikari."

PROMOTIONS OF THE SUBORDINATE EDUCATIONAL SERVICE.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

XXVII.—Will the Government be pleased to state the reasons for which the promotions of all the officers in the Subordinate Educational Service, during the last two years, have been withheld?

The Hon'ble Mr. Cumming replied:—

"The Hon'ble Member is misinformed with regard to the period during which promotions have been withheld in the Subordinate Educational Service. Promotions have been made to ordinary grade vacancies up to December, 1909. The reasons for withholding promotions since that date have been given in the answers to the questions asked by the Hon'ble Babu Deba Prasad Sarbadhikari."

FILLING OF VACANCIES IN THE SUBORDINATE EDUCATIONAL SERVICE.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

XXVIII.—Will the Government be pleased to state—

(*a*) how and when the vacancies in the different grades of the Subordinate Educational Service will be filled?

(*b*) whether there will be two different *cadres* for the members of the teaching and the inspecting staff?

(*c*) whether all the inspecting officers will be allowed an opportunity of being trained? and

(*d*) whether the Sub-Inspectors of Schools, transferred from District Boards to Government service, will be allowed to participate in the arrangements to be made to fill the vacancies that have occurred since the date of the Secretary of State's despatch sanctioning the scheme of provincialisation of Board Sub-Inspectors?

The Hon'ble Mr. Cumming replied:—

(*a*) & (*b*) "These questions have already been dealt with in the answers given to the questions of the Hon'ble Babu Deba Prasad Sarbadhikari.

(*c*) No scheme for training such officers has as yet been prepared.

(*d*) This question has already been dealt with in the answers given to the questions of the Hon'ble Babu Deba Prasad Sarbadhikari."

THE BENGAL SECRETARIAT PRESS.

The Hon'ble Mr. K. B. Dutt asked the following questions:—

XXIX.—Will the Government be pleased to state how many printing presses there were under the Bengal Government in 1900-01, and how many in 1909-10?

[*Mr. K. B. Dutt.*]

XXX.—Will the Government be pleased to state—

(*a*) what amounts in stock, plant, machinery and materials have been transferred from the Bengal Secretariat Press, the Tour Press and the Presidency Jail Press to the Printing Department of the Government of Eastern Bengal and Assam owing to the Partition of Bengal? and

(*b*) what amount has been spent in stock, plant, machinery and materials for the Bengal Secretariat Press, the Tour Press, the Private Secretary's Press and the Presidency Jail Press, respectively, since the Partition down to the year 1909-10?

XXXI.—(*a*) What have been the new labour-saving machines obtained for the Bengal Secretariat Press from Europe since 1908-09, and at what cost?

(*b*) Since when are they being worked?

(*c*) What reduction in establishment has since been made in the particular departments in which they have been installed?

XXXII.—(*a*) Is it a fact that, owing to the separation of the Presidency Jail Press from the control of the Bengal Secretariat Press, it has been found necessary to establish a new type-foundry and a workshop in the Bengal Secretariat Press?

(*b*) What has been the initial cost for plant, tools, machinery and buildings?

(*c*) When were the type metals first purchased locally, and at what cost, and when were they brought into use?

(*d*) What amount of types, leads, spaces, etc., have been cast since its establishment, and what has been the cost for establishment and type metals during that period?

XXXIII.—Will the Government be pleased to state what were the annual establishment charges of the Bengal Secretariat Press from the year 1900-01 to 1909-10, and what was the amount of outturn of work during that period?

XXXIV.—(*a*) Will the Government be pleased to state what amount of printing and book-binding work was done by private firms annually from the year 1900-01 to 1909-10?

(*b*) Does the figure of outturn include the work done by private Presses?

XXXV.—(*a*) Will the Government be pleased to state up to which year, prior to the retirement of Abdul Aziz, a stationery-keeper of the Bengal Secretariat Press, were the stationery and store accounts of that office last adjusted?

(*b*) Were certain discrepancies in the stock accounts reported by the auditing officer prior to May, 1904?

(*c*) If so, to what extent?

(*d*) Is it a fact that a written explanation regarding certain heavy discrepancies in paper stock was submitted by Abdul Aziz on the 6th December, 1904, or thereabouts, and that no action was taken on the explanation submitted by him?

(*e*) What was the total amount of discrepancy for which explanation was obtained from Abdul Aziz?

(*f*) What was the amount of discrepancies disclosed in the above audit report, and during which period did they occur?

(*g*) Will the Government please lay on the table a statement showing the annual results of the stock verification in comparison with the ledger balances in the stationery accounts of Abdul Aziz from the year 1899-1900 to the year 1903-04?

[*Mr. K. B. Dutt; Mr. Wheeler.*]

(*h*) Is it a fact that Abdul Aziz, when he left work, was working at the period of a third extension of service granted to him in the interests of the public service?

(*i*) What was his age at retirement?

(*j*) Was it incumbent on Abdul Aziz or anybody else on his behalf, to make a second application for pension when he had already applied for pension in July, 1904?

(*k*) If so, under what rules?

XXXVI.—Will the Government please state the total number of dismissals in the Bengal Secretariat Press since February, 1907, up to January, 1911, in both the paid and the piece establishments, pensionable and non-pensionable services?

XXXVII.—(*a*) How many section-holders and assistant section-holders are there now in charge of composing and distributing sections?

(*b*) What were their pay and position in November, 1907, and what were they in November, 1910?

(*c*) How many of them took the protection of the Insolvency Court, and how many of them are on the Committee of the Lewis Provident Fund?

(*d*) Is there any insolvent on the Committee of that Fund?

The Hon'ble Mr. Wheeler replied:—

XXIX.—"In 1900-01 there were three printing presses under the Bengal Government, and in 1909-10 four."

XXX.—(*a*) "Three hand-presses, valued at Rs. 725, were transferred to the Printing Department in Eastern Bengal and Assam after the partition.

(*b*) A statement is laid on the table giving the required information."

XXXI.—(*a*) "A statement is laid on the table, showing all the machines bought since 1908-09 and their cost.

(*b*) From various dates in 1910, with the exception of Items 15, 16, 17 and 20, which have not yet been brought into use.

(*c*) No reduction of establishment has been made."

XXXII.—(*a*) "The answer is in the negative. The type foundry was established at the Bengal Secretariat Press primarily to meet the requirements of that Press. Moreover, the plant at the Presidency Jail Press required thorough renewal and no accommodation for a type-casting department has been provided at the new Alipur Jail, to which the Jail Press will eventually be removed.

(*b*) The plant, tools and machinery cost Rs. 27,410: the buildings cost Rs. 7,246.

(*c*) The first purchase of metal locally was made in December, 1908, when some tin ingots were bought at a cost of Rs. 1,847. They were brought into use in February, 1910.

(*d*) 115,162 lbs. of types, leads, spaces, etc., have been cast up to the 31st January, 1911. The cost of establishment up to the 31st January, 1911, was Rs. 4,800. The cost of type metals up to the end of 1910 amounted to Rs. 33,030."

XXXIII.—"A statement furnishing the necessary information is laid on the table."

[*Mr. Wheeler.*]

XXXIV.—(*a*) "A statement of the figures is laid on the table.

(*b*) The answer is in the affirmative."

XXXV.—(*a*) "Abdul Aziz left the Press in May, 1904. The usual audit and inspection of accounts of the Secretariat Press for the year 1903-04 was made in connection with the triennial audit conducted in 1907.

(*b*) The report of the audit of the accounts of the Secretariat Press for the years 1901-02 and 1902-03 was received in April, 1904. Certain discrepancies were then brought to notice.

(*c*) The discrepancies were not numerous and were of minor importance.

(*d*) No such explanation is traceable.

(*e*) The information desired is not now available.

(*f*) As already stated, the accounts of which the audit report was received in April, 1904, were those of 1901-02 and 1902-03. The discrepancies disclosed were of a variety of kinds which cannot be tabulated so as to show any aggregate amount.

(*g*) The information asked for is not available.

(*h*) Abdul Aziz was 59 when he died, which presumably means that he was on his fourth extension, but no papers are now traceable.

(*i*) Reference may be made to the answer to the preceding question.

(*j*) The answer is in the negative.

(*k*) In view of the preceding answer this does not arise."

XXXVI.—"A statement is laid on the table."

XXXVII.—(*a*) "The numbers are as follows :—

Composing Section—	
Section-holders	8
Assistant Section-holders	7
Distributing Section—	
Section-holder	1
Assistant Section-holders	2

(*b*) A statement is laid on the table.

(*c*) None of the employés named are reported to have passed through the Insolvency Court. Three of them are on the Committee of the Lewis Provident Fund.

(*d*) The answer is in the negative."

Statement referred to in the Answer to Question No. XXX.

Year.	Secretariat Press.	Tour Press.	Presidency Jail Press.
	Rs.	Rs.	Rs.
1905-06	75,175	990	3,98,749
1906-07	88,984	1,167	4,84,462
1907-08	1,04,441	1,619	5,71,007
1908-09	*1,11,827	1,384	4,02,729
1909-10	*1,49,908	1,791	3,68,768

* Includes the Belvedere Press, for which separate accounts are not kept.

The figures in the statement include the amounts spent on plant, stock, machinery and materials (including paper). As some of these items are included under the head "Contingencies," and it is not possible to separate them without detailed examination of the vouchers, the whole of the

expenditure under this head has been included, although it comprises items outside the scope of the question.

Previous to the year 1908-09 a large part of the expenditure shown under the Presidency Jail Press was on account of materials for the Secretariat Press.

Statement referred to in the Answer to Question No. XXXI.

Item No.		Rs.
1	4 Foucher Patent New Universal Type-casting machines, Model No. 1	11,853
2	1 Leather-paring machine	480
3	1 Book back rounding machine	672
4	1 Thread-perforating machine	386
5	1 Round-cornering and hole-punching machine	84
6	1 Thread stitching and knotting machine	1,908
7	1 Book-sewing machine	2,357
8	1 Adjustable envelope-making machine	3,730
9	1 Adjustable punching machine	1,041
10	1 Folding machine	2,566
11	1 Book-backing machine	560
12	1 Foucher Patent New Universal Tpye-casting machine, Model No. 1	3,020
13	1 Large work Type-casting machine	1,040
14	1 Kerning machine	318
15	6 Double Crown Drum Cylinder Letter-press machines ...	*18,360
16	1 Guillotine cutting machine	1,414
17	1 Guillotine knife-grinding machine	*600
18	1 Book-sewing machine	2,378
19	2 Hand-numbering machines	288
20	1 Washer-cutting, gumming and punching machine ...	*750
	Total ...	53,715

* Invoice not received from the Director-General of Stores. Price shown is as estimated in Indent.

Statement referred to in the Answer to Question No. XXXIII.

	Establishment charges.	Value of outturn.
	Rs.	Rs.
1900-01	2,05,812	3,21,694
1901-02	2,13,993	3,22,042
1902-03	2,42,123	2,94,724
1903-04	2,30,726	2,98,394
1904-05	2,26,000	2,88,243
1905-06	2,14,265	2,84,288
1906-07	3,01,989	3,83,113
1907-08	3,38,869	4,82,945
1908-09*	3,33,361	4,18,202
1909-10*	3,11,239	3,66,709

* Including Belvedere Press.

Statement referred to in the Answer to Question No. XXXIV.

Year.	Value of outturn of work.
	Rs.
1900-01	11,652
1901-02	10,382
1902-03	10,943
1903-04	5,542
1904-05	3,433
1905-06	8,223
1906-07	18,476
1907-08	20,285
1908-09	41,926
1909-10	56,770

[*Mr. Wheeler; Khan Bahadur Maulvi Sarfaraz Husain Khan; Mr. Cumming.*]

Statement referred to in the Answer to Question No. XXXVI.

Year.	Permanent.		Temporary.	
	Salaried.	Piece.	Salaried.	Piece.
1907 (from February) ...	2	...	4	86
1908	17	1	33	248
1909	26	...	38	113
1910	37	11	54	130
1911 (January) ...	1	...	5	5

Statement referred to in the Answer to Question No. XXXVII.

		Position in November 1907.			Position in November 1911		
			Grade.	Rs.	Section-holder		Pay Rs.
1.	Rajendra Nath Ghose ...	Worked as Section-holder, but shown as Compositor.		36	(pay Rs. 50—1—55) (Composing) Permt.	Salaried	52
2.	Gobardhone Dass ...	Section-holder, permanent piece.		45	Ditto	Ditto	52
3.	Pulin Behary Dey ...	Ditto, ditto		35	Ditto	Ditto	52
4.	G. Gomes	Compositor, extra piece ...		30	Ditto	Ditto	51
5.	Upendra Nath Mandal ...	Ditto ditto		30	Ditto	Ditto	52
6.	Sreekristo Dass ...	Compositor, permanent piece.		35	Ditto	Ditto	52
7.	F. D'Cruse	Section-holder, permanent piece.		45	Ditto	Ditto	52
8.	J. Reuben	Worked as Section-holder, but shown as Compositor, extra piece.		40	Ditto	Ditto	52
9.	Behari Lal Ghose ...	Compositor, extra piece ...		30	Distributing	Ditto	50
10.	Atul Chandra Banerji ...	Ditto, ditto ...		35	Asstt Section-holder (pay Rs. 35-1—40) (Composing).	Ditto	37
11.	Khoiruddin	Ditto, ditto ...		16	Ditto	Ditto	37
12.	Rahmatullah Mullick ...	Working as Compositor, etc. Permanent piece.		40	Ditto	Ditto	40
13.	Narsing Chandra Nundy ...	Compositor, extra piece ...		30	Ditto	Ditto	37
14.	Gosto Behari Seal ...	Ditto, ditto ...		25	Ditto	Ditto	36
15.	Ganesh Chandra Mozumdar ...	Ditto, ditto ...		25	Ditto	Ditto	37
16.	Gopal Chandra Dass ...	Ditto, ditto ...		25	Ditto	Ditto	27
17.	Brojo Nath Das Ghose ...	Distributor, ditto ...		12	Distributing	Ditto	35
18.	Abdur Razaq	Compositor, ditto ...		30	Ditto	Ditto	37

EXTENSION OF BENGAL ACT I OF 1876.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

XXXVIII.—Will the Government be pleased to give the names of the districts, in the province subject to the Lieutenant-Governor of Bengal, to which Bengal Act No. I of 1876 (an Act to provide for the Voluntary Registration of Muhammadan marriages and divorces) has been extended?

The Hon'ble MR. CUMMING replied:—

"Bengal Act I of 1876 has been extended to Calcutta, to all the districts in the Burdwan and Presidency Divisions, and to the districts of Monghyr, Bhagalpur, Purnea, Cuttack, Balasore and Ranchi."

SYEDPORE TRUST ESTATE AND HOOGHLY IMAMBARAH.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

XXXIX.—Will the Government be pleased to lay on the table a statement showing—

(*a*) the annual gross income of the Syedpore Trust estate and its annual collection and administration charges,

(*b*) the annual expenses of the Hooghly Imambarah, and

(*c*) the names of the colleges and schools in which scholarships from the Trust Fund have been given during the last three years?

[*Mr. Cumming; Khan Bahadur Maulvi Sarfaraz Husain Khan.*]

The Hon'ble MR. CUMMING replied:—

(*a*) "A statement is laid on the table showing the gross income of the Syedpur Trust Estate, together with the administration charges for the last three years.

(*b*) Government keeps no accounts of the annual expenses of the Hooghly Imambarah. That is a matter for the Mutawalli and Committee of Management. One-third of the net income of the Syedpur Trust Estate is placed at the disposal of the Committee of Management of the Imambarah. A copy of the budget of the Mohsin Endowment Fund for the year 1909-1910, giving details of the expenditure from the Fund, was laid on the table at the meeting of this Council held on the 26th March, 1910.

(*c*) In this Province scholarships paid out of the Mohsin Endowment Fund were drawn in the following colleges and schools during the three years 1907-1908 to 1909-1910:—

1907-1908.—The Presidency College; the St. Xavier's College; the M. A. O. College, Aligarh; the Burdwan Raj College; Calcutta Madrasah, Arabic Department and Anglo-Persian Department; and the Balasore Zilla School.

1908-1909.—The Presidency College; the St. Xavier's College; the Hooghly College; the B. N. College, Bankipore; the Calcutta Madrasah, Arabic Department and Anglo-Persian Department; and the Balasore Zilla School.

1909-1910.—The Presidency College; the Patna College; the City College; the Calcutta Madrasah, Arabic Department and Anglo-Persian Department; and the Balasore Zilla School.

A sum of Rs. 30,000 is annually paid out of the Fund to the Eastern Bengal and Assam Government for educational purposes.

Statement referred to in the answer to Question No. XXXIX *showing the gross income of the Syedpur Trust Estate, together with the Collection and Administration Charges.*

Receipts and Disbursements.	1907-08.	1908-09.	1909-10.
	Rs.	Rs.	Rs.
I.—Total receipts	2,08,092	2,06,470	2,08,824
II.—Collection and Administration Charges—			
Revenue and cesses due to Government ...	1,12,551	1,12,551	1,12,551
Ditto ditto to superior landlord ...	5	5	5
Management	5,286	6,040	6,163
Law expenses	1,034	1,428	2,508
Improvements and schools and dispensaries ...	4,902	4,846	7,754
Cost of survey and settlement	1,160	1,608	1,103
Miscellaneous, including taxes and rates ...	9,442	9,253	8,703
Suspense accounts	575	3,408	407
Payment of debts	119	1,061	.....
Investment	... ..	.....	7,038
Working balance	3,018	6,276	2,532
Total ..	1,38,092	1,46,470	1,48,824

AMENDMENT OF THE BENGAL SETTLED ESTATES ACT, 1904.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

XL.—Will the Government be pleased to state if the Bengal Settled Estates Act, 1904, is likely to be amended during the present Legislative Session?

[*Mr. Cumming; Mr. Dip Narayan Singh; Mr. Wheeler.*]

The Hon'ble MR. CUMMING replied:—

"The answer is in the negative. But the working of the Act has been referred for consideration by a strong representative Committee, whose report is awaited."

CONSTITUTION OF THE GAYA DISTRICT BOARD.

The Hon'ble MR. DIP NARAYAN SINGH asked:—

XLI.—(*a*) Has the attention of the Government been drawn to the letter addressed by Babu Nand Kishore Lall, M A., B.L., Vakil and Zamindar, Gaya, to the District Magistrate of Gaya, on the subject of the constitution of the Gaya District Board, and published in the *Behares* of the 6th January, 1911?

(*b*) Is the Government aware that the state of affairs disclosed in that letter exists in many of the districts of Bihar?

(*c*) Do the Government propose to take any steps in the matter, and, if so, on what lines?

The Hon'ble MR. WHEELER replied:—

(*a*) "The attention of Government has been drawn to the letter referred to by the Hon'ble Member.

(*b*) The question raised therein is as regards the eligibility of Subdivisional Officers to sit upon District Boards as the elected representatives of the Local Boards of which they are members. It is the case that in some other Bihar districts, besides Gaya, Subdivisional Officers have been elected to the District Board by the respective Local Boards to which they belong.

(*c*) The legal question is not free from doubt, but Government is willing to direct that Subdivisional Officers shall not in future stand for election by Local Boards as members of the District Boards."

CONSTITUTION OF THE DISTRICT BOARDS IN BIHAR.

The Hon'ble MR. DIP NARAYAN SINGH asked:—

XLII.—Will the Government be pleased to state the numbers of the Hindu, Muhammadan and European members of the District Boards in Bihar, and the proportion they bear to the population of the different communities in the respective districts?

The Hon'ble MR. WHEELER replied:—

"A statement giving the information asked for is laid upon the table."

Statement referred to in the answer to Question No. XLII showing the percentage of different communities to the total population and the percentage of the same communities to the total membership of the District Boards in the Patna and Tirhut Divisions.

Divisions.	District Boards.	Hindus.		Muhammadans.		Europeans.	
		Percentage of total district population.	Percentage of total membership of the District Board.	Percentage of total district population.	Percentage of total membership of the District Board.	Percentage of total district population.	Percentage of total membership of the District Board.
Patna ...	Patna ...	88·3	37·5	11·5	41·7	·09	20·8
	Gaya ...	89·3	30·0	10·6	45·0	·007	25·0
	Shahabad ...	92·7	62·5	7·2	12·5	·01	25·0
Tirhut ...	Saran ...	88·1	44·0	11·8	12·0	·007	44·0
	Champaran	85·1	30·0	14·7	5·0	·01	65·0
	Muzaffarpur	87·7	36·0	12·2	20·0	·01	44·0
	Darbhanga	87·8	20·0	12·1	8·0	·009	72·0

[*Mr. Dip Narayan Singh; Mr. Stevenson-Moore; Babu Kirtanand Sinha.*]

SUBSIDY TO A NEWSPAPER.

The Hon'ble Mr. Dip Narayan Singh asked:—

XLIII.—(*a*) Has the attention of the Government been drawn to the following paragraph, which appeared in a recent issue of the *Englishman*:—

"*Newspaper subsidised by Government.*—Correspondence is in progress between Rai Norendra Nath Sen Bahadur and the Government of Bengal in connection with the publication of a vernacular weekly which, it is proposed, will be healthy in tone and polished in style. It seems that the idea of such a paper, to be subsidised by Government, first occurred to Sir Andrew Fraser, but, for some reason or other, he could not see the project through. It has apparently been left for Sir Edward Baker to work up Sir Andrew's project, with this difference that Sir Andrew wanted the Government to have proprietary right over the contemplated paper, whereas, according to Sir Edward Baker's project, Government is to play the role of a patron, so to speak, in connection with the administration of the paper. In Rai Norendra Nath Sen Bahadur, the veteran journalist, Sir Edward found one whom he could trust with the editorship of the proposed paper. Some time in July last, it appears, His Honour granted an interview to Mr. Sen, in the course of which the desirability of such a paper was discussed. In the result, the veteran journalist has formulated a scheme for issuing a vernacular weekly, to be named *Sulov Samachar*, and to be conducted on the lines of the *Indian Mirror*, his own organ. Under the present scheme, Government is to subscribe for 25,000 copies of each issue of the paper, which will be distributed among the schools, and as the annual subscription is proposed to be Rs. 2-8-0, the contribution to be made by the Local Government will work out at Rs. 62,500 a year. Of this sum, Rs. 15,625 are said to have already been made over to Mr. Sen. The proposed *Sulov Samachar* will be somewhat larger than the size of the *Indian Mirror*, with nine columns to each page, and will be issued from March next. It may be mentioned that the *Sulov Samachar* proposes to be a new continuation of the vernacular weekly with the same title which was started some years ago by the late great Brahmo leader, Keshub Chunder Sen, and was, after a brief span of existence, discontinued."

(*b*) Will the Government be pleased to state whether any of the statements made in the above paragraph are true, and, if so, which?

The Hon'ble Mr. Stevenson-Moore replied:—

(*a*) "The answer is in the affirmative.

(*b*) The Government of Bengal has entered into an agreement with Rai Norendra Nath Sen Bahadur, Editor of the *Indian Mirror*, to subscribe for 25,000 copies of a weekly vernacular paper, on the lines of the *Indian Mirror*, which he has undertaken to publish. This agreement has been made with Rai Norendra Nath Sen Bahadur for three years, provided that the paper remains under his direction during that period. The cost to Government is limited to an annual sum of Rs. 62,500, of which a sum of Rs. 15,625 has been paid in advance. It is proposed that the copies for which Government subscribe should be distributed widely in the districts among panchayats, educational institutions and Government offices. Rai Norendra Nath Sen Bahadur is not yet in a position to announce the date on which the first number will appear."

RULE 810 OF THE JAIL CODE.

The Hon'ble Babu Kirtanand Sinha asked:—

XLIV.—(*a*) Will the Government be pleased to state whether the provisions of Rule 810 of the Jail Code (under which all juveniles who are undergoing sentences of a year or more shall be brought under instruction in reading, writing and arithmetic) are given effect to in all the jails of the Province?

(*b*) If not, will the Government be pleased to name the jails in which the said provisions have been given effect to?

(*c*) Will the Government be pleased to state whether it intends to order the enforcement of the provisions of the said rule in all the jails of the Province, or in all jails in which there are such prisoners?

The Hon'ble Mr. Stevenson-Moore replied:—

"Juvenile prisoners who are undergoing sentences of a year or more are confined in the Alipore Juvenile Jail or in certain selected Central Jails. In all these jails the provisions of rule 810, Jail Code, are enforced."

[*Mr. Slacke; Sir Bijoy Chand Mahtab, Maharajadhiraja Bahadur of Burdwan; Mr. Cumming.*]

THE BENGAL VACCINATION (AMENDMENT) BILL, 1911.

The Hon'ble Mr. Slacke presented the Report of the Select Committee on the Bill further to amend the Bengal Vaccination Act, 1880.

The Hon'ble Mr. Slacke moved that the Report be taken into consideration.

The motion was put and agreed to.

The Hon'ble Mr. Slacke also moved that the clauses of the Bill be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

The Hon'ble Sir Bijay Chand Mahtab, Maharajadhiraja Bahadur of Burdwan, withdrew, with the permission of the President, the following motions of which he had given notice:—

(6) that clause 6 of the Bill be omitted,

(7) if Motion No. (6) be carried, to move that sub-clause (*1*) of clause 21 of the Bill be omitted.

He said:—

"Your Honour,—In view of the fact that from the statistics which I have seen, the mortality of unprotected infants between the ages of six months and one year is high; also that as dentition of infants in this country begins soon after six months, and also as some of the non-official Members, who were on the Select Committee, view with favour the reduction of this period from one year to six months, I beg to withdraw my amendment."

The Hon'ble Mr. Slacke moved that the Secretary be directed to re-number the clauses and sub-clauses of the Bill in consecutive order.

The motion was put and agreed to.

The Hon'ble Mr. Slacke also moved that the Bill be passed.

The motion was put and agreed to.

THE SAMBALPUR REPEALING AND AMENDING (RATES AND CESSES) BILL, 1911.

The Hon'ble Mr. Cumming moved that the figures "1911" be substituted for the figures "1910" in clause 1 of the Bill to repeal and amend in the district of Sambalpur certain enactments relating to abolished rates and cesses.

He said:—

"Sir, at the last meeting of the Council, I explained that the Sambalpur Repealing and Amending (Rates and Cesses) Bill was purely formal. The Bill was to be taken into consideration at the present meeting. I now beg to move that in clause 1 of the Bill, the figures '1911' be substituted for the figures '1910'."

The motion was put and agreed to.

The Hon'ble Mr. Cumming also moved that the Bill, as amended in Council, be passed.

The motion was put and agreed to.

[*Mr. W. C. Macpherson.*]

THE ESTATES PARTITION (AMENDMENT) BILL, 1911.

The Hon'ble Mr. W. C. Macpherson moved for leave to introduce a Bill to amend the Estates Partition Act, 1897.

He said—"I ask for leave to introduce a Bill to amend the Bengal Estates Partition Act of 1897. The object of the Bill is to reduce the delays which commonly occur in the proceedings for partition of estates by Revenue-officers, which are generally known as *butwara* proceedings. The dilatoriness of these proceedings has frequently and indeed almost continuously engaged the attention of the Revenue authorities and of the Government. Sir Steuart Bayley and Sir Charles Elliott in succession, considered the subject during their Lieutenant-Governorships, and in the Statement of Objects and Reasons which was attached to the Bill introduced in Council by a distinguished Revenue Officer, the late Mr. Finucane, which was afterwards passed into law as the Act of 1897, it was stated that the chief and primary object of the legislation proposed was to shorten and simplify and cheapen these proceedings. A perusal of the debates of the Council and of the records of the Select Committee of the time, however, will show that the energy of the Council and of the Government was in great part diverted, first, to the issue, which was raised, as to limiting the partibility of estates and, secondly, to safeguarding the interests of tenants, with the result, as I would submit, that not enough was done in advancing what was declared to be the primary and chief object of the Bill.

"Something was done. By the Act of 1897 the stage known in the old law of 1876 as that of 'general arrangement,' was abolished; and the stages of proceedings at which objections and appeals may be made were defined and limited. Nevertheless the proceedings for partition of estates have continued to be protracted and harassing to parties. In recent years Deputy Collectors and Sub-Deputy Collectors have been specially trained for this work, the pay of the establishments has been raised, and part of the establishment has been put upon a permanent footing. Various checks have been prescribed for the prevention of delays; and the Commissioners of Divisions recently reported that the progress made in the disposal of partitions had improved as compared with former years. The returns for last year, however, show that in the Patna and Tirhut Divisions, where most of these cases are filed, proceedings in the case of 382 estates were of more than two years' standing; and I have ascertained that in nine districts the average duration of cases recently disposed of has varied from three years in Darbhanga to seven years in Saran and over seven years in Jessore. Cases which come before the Board on appeal are frequently of many years' standing Since I came into this room this morning, an Hon'ble Member has told me that a case has just been decided in the Monghyr district which was 22 years on the file. A Sub-Deputy Collector has told me that he had brought to an end proceedings that had been instituted before he was born.

"I should like to call forth the special interest of the Council in these proceedings, which are of special importance to proprietors of land in Bihar. In Bengal proper, except the Dacca Division, with which this Council is not concerned, partition of estates by Revenue-officers is infrequent. Proprietors of estates in Bengal ordinarily prefer to obtain such separation of their responsibilities as they think necessary by taking out what are known as 'separate accounts' under the provisions of the Revenue Sale Law and the Land Registration Act. I shall not go into the technicalities of those laws or explain in what respect 'separate accounts' differ from partition of estates.

"What I desire especially to emphasize is that to the small peasant proprietor of Bihar it is frequently of vital importance that they should be able promptly to obtain complete and undivided enjoyment of their fields and separate liabilities for the land-revenue.

"If the Council will bear with me for a few moments, I should like to explain how minute is the division of proprietary rights in some of the districts of this province. I once found in a village of Muzaffarpur of 442 acres that

there were 373 names of proprietors on the record of proprietary rights known as the *khewat.* After allowing for repetition of names, it is quite certain that in that village proprietors on an average owned not more than 3 or 4 acres each—certainly not more than a very small number of acres. There were eight estates in that village; the first estate was divided into 61 parcels or *pattis* and the second estate into 51 *pattis*, and so it went on through the eight estates; and there were 47 parcels of land common to two or more *pattis* or to two or more estates, or to all the estates. I am speaking purely of proprietary rights, not of tenant rights. Such is the intricacy of proprietary right, and such is the subdivision that exists in many districts of the province. Of the district of Saran, perhaps one-fourth or one-fifth belongs to the great estate of Hathwa; nevertheless the revenue of the Saran district is paid annually in over 100,000 small payments.

"Just half a million names of proprietors were recorded in the cadastral survey of four of the districts of North Bihar, that is, in Muzaffarpur, Darbhanga, Saran and North Monghyr, and it is stated in one of the reports that the position of the mass of the proprietors is little more than that of cultivators. To such persons the yoke of joint possession of fields and joint liability for the land-revenue frequently becomes intolerable. A family may cultivate and enjoy jointly, but when the father dies the sons desire to have separation of fields and separate liability for the revenue and cesses; and patriarchal arrangements disappear as the desire for individual status develops.

"In carrying out partition under such circumstances, it is essential that the procedure of our Revenue-officers should be simple and cheap and expeditious, because, if it is not so, we practically deny to peasant proprietors a relief which existing conditions undoubtedly require.

"It has been ascertained that in the United Provinces, where similar conditions of intricacy of proprietary right obtain, partitions are carried out much more expeditiously; and one cause of more prompt disposal in those provinces appears to be that whereas in Bengal the partition paper is submitted to the Commissioner of the Division for confirmation, in the United Provinces the partition is confirmed by the Collector. With the progress of the field survey and record-of-rights in Bengal and with the introduction of the provision made in the Act of 1897, requiring that a partition shall be made on the basis of a trustworthy survey and record of assets, the objections to confirmation by the Collector disappear. A change of this nature, with consequential provisions, is the first amendment of procedure which is proposed in the Bill. If everyone is content with the Collector's partition, it will not be necessary that the papers should go to the Commissioner of the Division at all, and it is believed that loss of time and expense to the proprietor will be saved. The origin of this proposal, Sir, is not in any wish to increase the powers of the Collector, or to reduce the work of the Commissioners, but it is to be found solely in the wish to help proprietors, and especially the small proprietors, to get their business done more expeditiously and cheaply.

"Not to take up more of the time of the Council, I shall refrain from entering into the details of this Bill, except to point out that there is a proposed restriction of second appeals to the Board of Revenue. At present the time of the Member of the Board is often taken up in determining not only whether the main features of a partition are equitable and reasonable, but in deciding whether particular plots of the cultivation, or of the village site, have been rightly assigned to this proprietor or to that proprietor, and that though there may have been concurrence of three subordinate Revenue Courts, viz., the Deputy Collector, Collector and the Commissioner, as to the reasonableness of the arrangement proposed. It will be noticed that it is proposed to restrict second appeals to the Board in the same manner as second appeals under the Code of Civil Procedure are restricted. The clause will require careful consideration because it may be difficult to say what should be regarded as questions of fact and what as questions of law in *Butwara* proceedings.

"I shall only add that this Bill is directed merely to the single object of shortening and simplifying and cheapening procedure. Difficulties have been

felt as to the interpretation of various important provisions of the law, and the rulings given have not always been uniform. It is not proposed, however, to deal with those difficulties in the present Bill, and they are reserved to be dealt with in a separate measure, when the action required shall have been carefully ascertained.

"The Bill, Sir, has been published for general information, and it is not proposed to do more at present than to ask for leave to introduce it and read it in Council. Opinions will then be collected on the Bill, and the next stage will be to ask for the appointment of a Select Committee. I move, Sir, that leave be given to introduce this Bill."

The Hon'ble Mr. M. S. Das said:—

"Your Honour,—The Hon'ble Mr. Macpherson, in introducing the Bill, has referred, in his remarks, to the troubles which the parties are subjected to in Tirhut, Bihar, and even in the districts of Bengal as Jessore. I should only ask him to bear in mind that there is another part of the country under Your Honour's rule, that is, Orissa, where I knew a certain case was pending for partition for over 20 years. Cases of dilatoriness of proceedings are very numerous. The fact is that in Bihar and in Orissa inheritance is governed by the *mitakhara* law, and in these days, when individual rights and individualism are being developed, the motives for partition of family estates are increasing. Consequently, there are frequent instances of application for partition. Nothing would be more welcome to persons interested in the revenue-paying estates than a simplification of the procedure for partition. But the Hon'ble Member, in introducing the Bill, disappointed me a bit when he said that these difficulties are not to be dealt with in the present instance. I should only request that if it be possible within the scope of the Bill—when this Bill is in the hands of the Select Committee for consideration—an attempt should be made to simplify it in such a way as to reduce the dilatoriness of proceedings. This would certainly be a great boon to many people. I hope, when considering the Bill, the difficulties which arise in Orissa, on account of the peculiar legal incidents of the tenures, and the law of inheritance will also be taken into consideration. I thought it proper to mention it to the Hon'ble Mr. Macpherson, for evidently his attention has not been drawn to the difficulties in Orissa."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said:—

"I should like, with Your Honour's permission, to make a few observations and suggestions on the Bill introduced by the Hon'ble Mr. Macpherson, at this stage. He is certainly to be congratulated in connection with the Bengal Estates Partition (Amendment) Bill. The main object of the Bill is to expedite the proceedings, curtail items of expenses and give satisfaction to parties concerned. I find, however, that no amendments are suggested with regard to one important matter, viz., Chapter II of the existing law, [1] which contains five sections which provide for right to claim partition. Section 4 provides for proprietors' right to claim partition, and section 8 provides that 'notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be entitled to claim partition under this Act.' 'Proprietor' has been defined in section 3, clause (*v*), as including every person who is in possession of any estate under partition, or any portion of such an estate, of any interest in any such estate or in any part of such an estate, as owner thereof. This definition excludes trustees, including *shebaits* of properties dedicated to Hindu deities and *mutwalies* of *waqf* properties. Now it is not desirable that this class of people—the trustees, *shebaits*, and *mutwalies*—should be excluded from claiming the rights of partitioning properties when the property is joint. There is also another class of property, which is called State property and which is held by the Secretary of State for India in Council on behalf of certain noblemen for upholding their dignity, and it would be a difficult question to decide as to who would be entitled to ask for partition in such a case if the property happens to be a joint one.

[1] Bengal Estates Partition Act, 1897 (Ben. Act V of 1897).

"Then, as regards widows, whose case would be covered by section 8, I do not see why widows should be deprived of the right of partition. Instances are known when one of three or four brothers dying and his share devolving upon the widow, the surviving brothers try to deprive her of her share of the property, and she is finally coerced, as it were, to agree to the terms of her brothers-in-law. The widow's interest may be in one sense called a life interest, but she has an absolute interest also under certain conditions. And there is no reason whatever why she should be deprived of the right to claim partition. I make the suggestion that while the Bill passes through different stages, these matters may be taken into consideration, and when the Act is intended for amending the existing law amendment should also be effected with regard to the question of right of partition."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"Your Honour,—I join issue with my hon'ble friend, Rai Baikuntha Nath Sen Bahadur, with regard to what has fallen from him that a Hindu widow should have the right, under the *Butwara* Act, to claim partition of her husband's estate, though she has only a limited interest in it. I have no hesitation in saying that it would be disastrous to the interests of Hindu families if Hindu widows were allowed the privilege of asking for partition. If that were conceded, they would be made tools of by interested and designing persons for disturbing or breaking the joint family system, and thereby causing ruination to joint Hindu families.

"Whatever may be the right of *shebaits* and trustees to claim partition, which, I must say, is of a doubtful character, it would surely be detrimental to the interests of joint families to concede such a right to Hindu widows."

The Hon'ble MR. W. C. MACPHERSON said:—

"In reply to what has fallen from the Hon'ble Members, I would only wish to say that the difficulties that underlie the working of the *Butwara* Act in respect of its substantive provisions have not escaped notice. In Orissa the Commissioner of the Division, Mr. Levinge, has given special attention to these difficulties. I believe that it will not be long before it will be necessary for Government and probably for this Council to consider more fundamental proposals for dealing with what I would call the difficulties of the substantive provisions of the *Butwara* law. To-day, Sir, however, we are concerned only with what I would call the adjective procedure, that is, the ancillary procedure of the various revenue tribunals who carry out partitions. We are not dealing with the difficult question of the conflict between the land registers and actual possession as found on the ground, or with questions of right to apply for a partition. Those difficulties, Sir, are far greater and more important than the matters of procedure which I have brought before the Council in the Bill to-day introduced. While I believe that these more important matters must come before Your Honour's Government, and perhaps at no long distance of time, before this Council, I would deprecate weighting the present Bill with anything except what relates to what I have called the adjective procedure of the Revenue Courts."

The Hon'ble Mr. W. C. Macpherson introduced the Bill, and moved that it be read in Council.

The motion was put and agreed to, and the Secretary thereupon read the title of the Bill.

RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

The President said:—"I understand that the Hon'ble Member has circulated his speech and that it is his intention not to read out or to deliver the whole of it. What he desires to give is a summary of it on the present occasion. If I am correct, I will call upon the Hon'ble Member to move the resolution."

[*Babu Braja Kishor Prasad.*]

The Hon'ble Babu Braja Kishor Prasad moved the following Resolution:—

That this Council recommends to the Lieutenant-Governor in Council that the Government should take immediate steps to increase, materially, the existing representation of the non-official Indian community on the District and Local Boards in the Tirhut Division.

The following speech by the Hon'ble BABU BRAJA KISHOR PRASAD having been printed in advance and circulated to all Members of Council, was, by permission of the President, taken as read.

"YOUR HONOUR,—

It is with much confidence in the sympathies of the Government with the legitimate aspirations of its Indian subjects towards securing at least some share in the administration of their local affairs that I beg to move the resolution which stands in my name. The resolution refers to those principles of Local Self-Government which were introduced into this country by that noble and generous statesman, the late Lord Ripon, whose memory will ever be cherished with fondness and gratitude by the people of this country. The main object of the introduction of Local Self-Government was to interest the people in the administration of local affairs and to afford them opportunities of receiving civic training by allowing them, through their District, Local and Municipal Boards, a share in the management of their own affairs. But, Sir, it is with much regret that I have to tell you that that noble object and those high principles, instead of being realized in any appreciable degree in most of the District and Local Boards of the Tirhut Division, are, to say the least, being every day frustrated. This matter has been, many a time, brought to the notice of the Government by the people of Bihar, and the Government has always held out hopes to them. But had the Government been mindful of its promises, it would not have been necessary for me to-day to bring up this matter before this Council in the form of a resolution. Long, long have we waited and sore has been our disappointment.

"The District and Local Boards of the Tirhut Division are practically manned and absolutely controlled by the European Community, and the Indians have little or no voice on them. The people, to train whom in the methods of Local Self-Government these Boards were primarily formed, have derived no benefit whatsoever from them in that direction. Such is the condition of these Boards in Tirhut, and it requires a careful consideration at the hands of the Government. Nowhere in this Province do we find such a deplorable state of affairs as we see here. Though the mainstay of the funds available for expenditure by these Boards is the Road Cess, almost the whole of which is contributed by the Indian Community, yet we find that it is the Indians who are nowhere on these Boards of the Tirhut Division. No doubt the European Planting Community of this Division is a very important community, and it is but just and proper that it should be fairly and adequately represented on these Boards. But, Sir, it is the excessive or over-representation of one community at the cost of the other that we respectfully but strongly protest against. I must not here be understood as saying anything regarding the Planting Community of the Tirhut Division in any but a friendly spirit. We recognise their importance and know how advantageous it has been to have some of them on our District Boards; and we have always urged before the Government their just claims.

"You will remember, Sir, how in August, 1908, a deputation of Biharees, of which I had the honour to be one of the members, organised by the three leading associations of Bihar, viz., the Bihar Landholders' Association, the Bihar Provincial Association, the Bihar Provincial Moslem League, presented an address to Sir Andrew Fraser, the late Lieutenant-Governor of this Province, in which his attention was drawn to the representation of this community on the Provincial Council. We there said:—

'This community is a strong and compact body in the Tirhut Commissionership, and it has its own efficient organization—the Bihar Planters' Association, with its head-quarters at Muzaffarpore. It is but right and proper that this important community should be directly and permanently represented in the Provincial Council. Hitherto it has been impossible for them to be represented in Council,

by reason of the fact that though they swamp the District Boards of the Tirhut Division, they could not obtain the votes of the southern districts of the Patna Division. If matters therefore in the Tirhut Division are allowed to remain as at present, the chances are that the Biharee Community there may find themselves ousted from representation in Council by the District Boards which may lead to heart-burning and result in bitterness of feeling. We therefore respectfully suggest that the best course would be to give a direct representation in the Council to the Planting Community, while at the same time directing the district officers to materially reduce their number on the District Boards. This will have to our mind another great advantage. It will enable a much larger number of Biharees to receive civic training, which was the primary object of the scheme of Local Self-Government enunciated by the Government of Lord Ripon, and it was distinctly stated to be so in the resolution of the Government of India. Nor can it be urged that the reduction of the number on the District Boards of the Planting Community will result in any inefficiency, for the District Boards of the southern districts of the Patna Division are no less efficient than those of the northern districts, although they are manned wholly by the members of the Biharee Community.'

"Now, Sir, all of us know how the Government, acting on the suggestion made by us, has allotted a seat to the Planting Community (which practically means the Planting Community of the Tirhut Division, for in no other division of Bengal there is such an influential Planting Community) on the Provincial Council. But the pity of it is that though the Government readily gave effect to one part of the suggestion it never thought of bestowing even a care on the other part of it, which concerned us, the Biharees; and this in spite of the promises of the late Lieutenant-Governor made in this direction. Sir Andrew Fraser in his reply to the said address on this subject said:—

'You refer to the representation of the European Planting Community on the District Boards in the Tirhut Division.....I have obtained the figures, and I certainly agree with you that the matter requires consideration.....It is certainly desirable that the interests with which the work of the District Boards is concerned should be represented on the Boards with some degree of reasonable proportion.'

"We now see how true it has turned out what we said then about the return of a Biharee from the District Boards of Tirhut to this Council. No Biharee could dare even stand as a candidate for election to this Council from the District Boards of the Tirhut Division at the last elections. And the reason of it is not far to seek; but the less said of it the better.

"I shall now proceed to demonstrate to you, Sir, to-day, the truth, rather the painful truth, of what I have said above by quoting facts and figures regarding the constitution of these Boards.

DARBHANGA.

Darbhanga District Board.

"Let us take up Darbhanga first. The District Board of Darbhanga comprises an area of 3,331 square miles with a population of 2,811,180, out of which not even 100 are members of the European Community. It has an income of about six lacs a year (being the richest District Board in Bengal), but hardly even a fiftieth part of this income is contributed by the European Community of the district. But what do we find when we turn to its constitution and try to see in what proportions these two communities—the one contributing nearly the whole of the income enjoyed by the District Board, forming nearly the whole of the population under it, and representing almost all the interests of the district, and the other, numerically a negligible quantity of its population, contributing very little towards its income and representing but one industry, viz., the indigo industry, are represented on this Board.

"The Darbhanga District Board consists of 26 members—5 *ex officio*, 9 appointed by the Government, and 12 elected by the two Local Boards of Samastipore and Madhubani. Out of this total of 26 members, only 8 are Indians and as many as 18 are members of the European Community. Of the 8 Indians, only 5 are non-official. If we leave off the *ex officio* members, yet we find that out of a total of 21 members, 15 are Europeans and only 6 are Indians.

"Of the 9 appointed members, 6 belong to the European Community and 3 are Indians; and of these 3 again, one is the Government Pleader,

[*Babu Braja Kishor Prasad.*]

so that we have only 2 non-official Indians. Of the 6 appointed European members, 1 is the Manager of the Darbhanga Raj, who is very rightly there, and the remaining 5 belong to the European Planting Community.

"Of the 12 elected members, 9 are Europeans and only 3 are Indians. It may be asked by persons not acquainted with the real state of affairs as to how the Government is responsible for the result of the elections by which the majority of the members returned to the District Board are Europeans. To this our answer is the Government is solely responsible for this, and the blame lies entirely at its door. To explain the matters clearly, we have to see the constitution of the two Local Boards of Samastipore and Madhubani, which elect these 12 members.

"All the members of the Local Boards in the Tirhut Division are appointed by the Government. Some Local Boards in some of the districts of Bengal have the right to elect two-thirds of their members, but that privilege has not been extented, for reasons best known to the Government, to any Local Board in the Tirhut Division, to which I shall refer later on.

Samastipore Local Board.

"Till a few months back the Samastipore Local Board, which elects six members to the District Board, consisted of nine members only, three of whom were Indians and six were Europeans—five members of the Planting Community and one the Subdivisional Officer. With such a constitution of a Local Board is it at all surprising to find that out of the six members elected by it to the District Board, five belong to the European Community and only one is an Indian? Out of the five European members, one is the Subdivisional Officer and the remaining four are members of the Planting Community. It appears that since November or December last, the number of the members of the Samastipore Local Board has been increased from 9 to 11, and the two additional members appointed are Indians. But this has not improved the matter much; for yet out of the 11 members, including the Subdivisional Officer, 6 are Europeans and 5 are Indians. On no principle whatever should the number of the non-official Indians be less than at least three-fourths of the total number.

Madhubani Local Board.

"Madhubani Local Board presents a somewhat similar spectacle. It has elected six members to the District Board, out of which five till lately were Europeans and one was an Indian. But now four are Europeans and two are Indians. The constitution of this Local Board is somewhat better than that of Samastipore, and I understand that the places of two members are vacant, and we hope these will be offered to non-official Indians.

"I may here bring to Your Honour's notice that only lately two places on the District Board of Darbhanga had fallen vacant by the resignations of Messrs. B. Coventry and F. Coventry, and in view of what we were given to understand in this Council by the answer to my questions Nos. (*c*) and (*d*) of the 26th February, 1910, and also by the reply given on this subject by Sir Andrew Fraser to our address of August, 1908, which has been quoted above, we all expected that those two places would be filled up by the appointment of non-official Indians; but, contrary to that, we find in the *Calcutta Gazette* of December, 1910, that two members of the Planting Community, viz., Messrs. Miller and Crowdy, have been appointed by the Commissioner of the Division to fill up these places.

Election of Sub-divisional Officers to District Boards.

"As regards the elections of Sub-divisional Officers to the District Boards, a serious question has been raised and there seems to be much force in it. It has become the practice in some of the districts of Bihar for Sub-divisional Officers to offer themselves for election to the District Board and they are invariably elected.

"Section 7 of the Bengal Local Self-Government Act of 1885 makes it clear that no person shall be elected a member of the District Board unless he is qualified for election as a member of some Local Board in the district under the provisions of section 13 of that Act. The Sub-divisional Officers are taken to be qualified under clause (2) of section 13, which lays down that every male person of the full age of 21 years, if he has during the

year immediately preceding such election had his *fixed place of abode* within the area under the authority of such Local Board, shall be deemed to be qualified for election as a member of such Local Board. It has been observed by competent authorities that there does not seem to be any distinction between "a fixed place of abode" and "a residence" in law. It has also been held in many cases by the High Courts in India that the words "dwelling" or "residence" are synonymous with "domicile" or "home" and mean "that place where a person has his fixed permanent home to which whenever he is absent he has the intention of returning." Judged in this light, the Subdivisional Officers of Samastipore or Madhubani cannot be said to have their "fixed place of abode" within the area under the authority of either Samastipore or Madhubani Local Board. Their elections, therefore, by the Local Boards are illegal and void. If this practice is put a stop to, as it ought to be, it may well afford chances for Biharees to be elected from the Local Boards. I would like in this connection to draw Your Honour's attention to a letter, dated the 9th of December, 1910, addressed by Babu Nand Kishore Lall of Gaya to Mr. Whitty, the Collector of that district, in which the subject has been fully discussed.

"Moreover, from another point of view also, the election of the Subdivisional Officers to the District Board is undesirable. It seems to be against the very spirit of the new Council Reforms scheme so graciously introduced into this country. That scheme allows each division of this Province to elect two members to the Council—one from the Municipal and the other from the District Board. And the rules framed for election under these Reform regulations seem to make it a point to exclude all official element from the elections; for we find that rule No. 4 of the rules for the election of a member or members by the District Boards runs thus:—

'On such date and at such time as may be appointed by the Local Government in this behalf, the members of each such District Board other than (*a*) the Chairman, if an official, and (*b*) the members appointed *ex-officio*, shall meet for the purpose of selecting a delegate.'

"Now, Sir, if the Subdivisional Officer happens to be not an *ex officio*, but an elected member, as is the case in some of the District Boards of Bihar, *e.g.*, Darbhanga, Muzaffarpur, Gaya and others, he cannot be excluded from taking part in the selection of a delegate. And we can well imagine how much the other members would be influenced by such an influential member as the Subdivisional Officer in the selection of a delegate. If it is at all necessary to have the Subdivisional Officers on the District Board, they can be appointed *ex-officio* members.

CHAMPARAN.

Champaran District Board.

"We have thus seen the constitutions of the District and Local Boards of the district of Darbhanga. We may now take up Champaran. This District Board comprises an area of 3,515 square miles with a population of 1,752,600, out of which hardly even 150 would be members of the European community. It has an income of about 2 lacs a year, the major portion of which is contributed by the Indian Community. But what do we find as regards the representation of this community on this Board? This District Board consists of only *ex officio* and appointed members, as there is no Local Board in its sub-division of Bettiah which could elect members to it. Till a few months back, this Board consisted of 17 members—14 Europeans, 2 Indian officials and only 1 non-official Indian. Of the 14 European members, 5 were officials, 8 members of the Planting community, and 1 Manager of the Bettiah Court of Wards, who, of course, has every right to be there. Since the 28th of December, 1910, 4 members have been added and they are all non-official Indians; so that now we have in all 21 members. If we leave off the 5 *ex officio* members, there remain 16. Of these, 5 are non-official Indians and 11 Europeans, *i.e.*, 8 members of the Planting Community, 1 the Manager of the Bettiah Raj, and 2 officials, viz., the Sub-Deputy Opium Agent and the Superintendet of Police.

"May I ask Sir, if this is a desirable state of affairs? Does this constitution afford any opportunity to the Indians to realize the object with which

[*Babu Braja Kishor Prasad.*]

the Act was introduced? Does this constitution make even a show of giving the Indian a share or any hand in the administration of his local affairs? We, on our part, fail to understand the principle on which this constitution practically excluding all Indian element is based. Taking even a very mild view of the situation, in no District or Local Board should the number of the non-official Indian members be less than at least three-fourths of the total number.

MUZAFFARPUR.

Muzaffarpur District Board.

"The Muzaffarpur District Board comprises an area of 2,982 square miles with a population of 2,706,618, out of which 100 or 125 may be members of the European Community. It has an annual income of a little over 4 lacs. The utmost that the European Community of the district contribute to it would not be more than Rs. 15,000 or Rs. 20,000. Now let us see its constitution. Till about the close of the last year it consisted of 19 members—13 Europeans, 2 Indian officials and 4 non-official Indians. Now it consists of 26 members—7 members of the European Planting Community, 2 Subdivisional Officers (Europeans) elected by the two Local Boards of Sitamarhi and Hajipore, 3 European officials, 2 Indian officials and 12 non-official Indians.

Sitamarhi Local Board.

"The Sitamarhi Local Board consisted till lately of 9 members—5 Europeans and 4 Indians. But now it consists of 11 members—4 members of the European Planting Community, 1 the Subdivisional Officer, 1 Indian official and 5 non-official Indians.

"This is certainly not satisfactory. The proportion of the non-official Indian members on both the District and the Local Boards to the total number of the members on them is not as it ought to be.

Hajipore Local Board.

"There is not much to be complained against the present constitution of the Hajipore Local Board.

SARAN.

Saran District Board.

"The Saran District Board comprises an area of 2,642 square miles with a population of 2,338,087, out of which not more than 100 may be members of the European Community. It has an annual income of about three lacs, ten or twelve thousand out of which may be the contributions of the European Community. But what do we find as regards the representation of these two communities on this District Board? It consists of 26 members—14 Europeans and only 12 Indians. Of the 12 Indian members, 3 are officials and have been appointed *ex officio*; so that only 9 are non-official Indians. Of the 14 European members, 6 are officials and 8 members of the European Planting Community.

SEWAN.

Sewan Local Board.

"Leaving the official members, who are 3 in number, the Sewan Local Board consists of 8 members—5 Indians and 3 Europeans,—members of the Planting Community.

GOPALGANJ.

Gopalganj Local Board.

"Similarly, if we leave off the official members, we find that the Gopalganj Local Board consists of 8 members—4 Indians and 4 Europeans, members of the Planting Community.

CONCLUSION.

Conclusion.

"We have thus seen the conditions of the District Boards of Darbhanga, Muzaffarpur, Saran and Champaran. These four District Boards of the Tirhut Division comprise an area of 12,470 square miles, with a total population of 9,608,435, out of which 1,000 at the utmost may be the number of the members of the European Community. These Boards have an income of about Rs. 15,10,561 a year, out of which Rs. 50,000, or Rs. 75,000, or say, Rs. 1,00,000 at the utmost, may be the contribution of the European Community. The indigo industry is

the only important industry, the interest of which is represented by the European Planting Community, while almost all the other interests of the Division are and can be better represented by non-official Indians. But, Sir, look at the constitution of these Boards. In these four District Boards there are in all 99 members, out of which 58 are Europeans and 42 Indians, and if Indian officials be left off, there remain only 33 non-official Indians.

"Is this justice and equity? Will the Government be pleased to enlighten us as to the principle or reason on which this constitution is based? Are we incorrect, Sir, when we tell you that these District Boards are absolutely controlled by the European Community? Can it be said with any show of reason that the non-official Indians are adequately represented on these Boards? We want neither more nor less than our just dues. We take our stand on the principles of the law which the British people have introduced into this country. We ask of you, Sir, justice and no favour. We appeal to you as a strong and just ruler to protect the weak against the strong, and to discharge your duty without any fear of treading on the corns of powerful interests; and time will vindicate your reputation.

"We have learnt with much satisfaction, Sir, that the Secretary of State has recognized that the Local Self-Government scheme of 1882 has not had a fair trial, and has pressed on the Government of India the necessity of an effectual advance in the direction of making local, urban and rural areas really self-governing. We would, therefore, most humbly suggest to you to make all the Local Boards of the Tirhut Division elective by extending to them the privilege of election under section 15 of the Bengal Local Self-Government Act. The Government would not lose anything by taking such a step—rather in view of what I have said above, I believe the time has arrived when this privilege should no longer be withheld from these Boards. The people have begun taking good interest in the matter of elections and will appreciate this privilege very much. The District Boards have now assumed a special importance, owing to the suffrage extended to them under the new regulations for election to the Imperial and Provincial Legislative Councils and, in the words of Dr. Gour, "being the nurseries of future legislators and administrators," they should be made real popular bodies in which and through which the people might realize the real intentions of the illustrious originators of the scheme of Local Self-Government in this country." Be 111

The HON'BLE BABU BRAJA KISHOR PRASAD, with the permission of the President, said:—

"The resolution which I propose to move runs thus:—

'That this Council recommends to the Lieutenant-Governor in Council that the Government should take immediate steps to increase materially the existing representation of the non-official Indian community on the District and Local Boards in the Tirhut Division.'

"My speech on the resolution has been printed and circulated amongst the members who, I believe, have read it, and as I have been given to understand that Your Honour wishes that, owing to the shortness of time, it may be taken as read, I gladly agree to it. I have only this much to add for the information of the Hon'ble Members, that the figures which I have quoted in my speech include everything which has been done up to date by the Government; so that it would be no answer for the Government to say that they are doing something and that a few seats have only lately, say in November or December last, been allotted to non-official Indians. I have taken account of all these things, and I think that I have been able to show how absurd the constitution of the Local Boards is. The request contained in my resolution is very modest and fair, and I can challenge any Member present here, official or non-official, elected or nominated, to point out anything against its being accepted by this Council. I would like to be told plainly, Sir, if it is not the fact that non-official Indians are not fairly represented on the District and Local Boards of the Tirhut Division. If they are not, what hesitation can the Government have in not accepting my resolution?

[*Mr. Filgate; Mr. Dip Narayan Singh; The President.*]

"I have given at length the figures, but I will only read something which I have taken for easy reference. Your Honour will find that the district of Darbhanga has a population of 2,811,180, out of which not even 100 are members of the European community. It has an income of about six lacs a year (being the richest District Board in Bengal), but hardly even a fiftieth part of this income is contributed by the European community. Now, Sir, when we look to the constitution of this District Board, we find that there are 26 members, out of which 18 are Europeans, 3 official Indians and 5 non-official Indians.

"Looking at Champaran we find that it has a population of 1,752,600, out of which hardly even 150 are members of the European community. The income is about two lacs a year, the major portion of which is contributed by the Indian community. The total number of members since 28th December, 1910, is 21, out of which 11 are Europeans, five *ex-officio* members and 5 non-official Indians.

"In Saran, we find the population is 2,338,087, out of which 85 or 87 are members of the European community. The income is about three lacs, ten or twelve thousand of which may be contributions of the European community. Now, Sir, if we look at its constitution we find that there are 26 members, out of which 14 are Europeans and only 12 are Indians. Out of the 12 Indian members, 9 are non-officials.

"Muzaffarpur, we find, has a population of 2,700,618, out of which about 120 are members of the European community. The income is about four lacs, out of which 15 or 20 thousand may, at the utmost, be the contribution of the European community. As regards its constitution, we find that there are 26 members, of which 12 are Europeans, two official Indians and 12 non-official Indians. So we find that Tirhut has a population of 9,608,435, out of which 1,000, at the utmost, may be the number of the European community. The annual income is about fifteen lacs, out of which one lac, at the utmost, may be the contribution of the European community. The total number of members is 99, out of which 31 are non-official Indians and 58 are members of the European community and 10 are official Indians. With these few words, I leave the resolution in the hands of the Hon'ble Members of the Council whose sympathetic support I expect to get."

The Hon'ble Mr. Filgate moved the following amendment of which he had given notice:—

That this Council recommends to the Lieutenant-Governor in Council that the consideration of the question of further extending the representation of the Bihari community is premature, and should be deferred until some experience has been gained regarding the practical effect of the measure on the working of the District and Local Boards and on the general welfare of the Division.

The Hon'ble Mr. Dip Narayan Singh said:—

"Sir, I beg to rise to a point of order. Under the rules, the amendment is not in order as it negatives the Resolution."

The President said:—

"The question is not free from doubt; but our conclusion is that the amendment amounts to something more than a negative to the Resolution, and I have decided to admit it.

The Hon'ble Mr. Filgate said:—"Your Honour, even experts allow that figures and statistics can be made to support or disprove any case but with the very short time I have had to peruse and digest the case so ably set forth by the Hon'ble Babu Braja Kishor Prasad in his printed speech, which only reached me just before leaving for Calcutta, I cannot see what grounds he can possibly have for saying 'but had the Government been mindful of its promises it would not have been necessary for me to-day to bring up this matter before this Council in the form of a resolution. Long, long have we waited, and sore has been our disappointment.' As the Hon'ble Member has been so careful to tabulate the figures for the various Boards, why could he not have expressed the thanks and gratitude of the Bihari Road Cess-payers for

what His Honour has done for them in the last few months. Twelve additional seats have been created on the District Boards, and every one of these have been given to a non-official member of the Indian community. Ten additional seats have been created on Local Boards, eight of which have gone to Indians, *i.e.*, out of 22 additional seats 20 have been given to members of the non-official Indian community. I will not trespass on the patience or time of this Council by criticising his figures for each District or Local Board, nor will I trouble you with tables of figures showing official and non-official members. The Hon'ble Member has just been talking in lakhs of the population of those districts. Is it the whole population who should be represented, or is it those who pay the cess? The Hon'ble Members have heard his figures. I can give you figures for the actual numbers who pay cess. The figures are as follows:—

Muzaffarpur	District	...	107,689
Darbhanga	,,	...	87,841
Saran	,,	...	92,125
Champaran	,,	...	5,485
		Total ...	293,130

The total non-official Europeans on the 4 District Boards is				... 33
Ditto	Indians	ditto	ditto	... 32
Local Boards non-official Europeans		...	...	... 19
Ditto	Indians	...	...	... 31

"I presume that an Hon'ble Member of this Council should take more than a parochial view of Bengal, and should acquaint himself with the wants and requirements of every community in the Province. The Hon'ble Member, however, apparently ignores the existence of quite as influential a body as the Tirhut Indigo Planters, namely their brother Planters, the Darjeeling Tea Planters. Nor again can I understand his remark 'No Bihari could dare ever stand as a candidate for election to this Council from the District Boards of the Tirhut Division at the last election'. Why not? Is it fear of a defeat? I would recommend him to carefully study the history and figures of elections in countries all over the world, where candidates come forward even in the face of a far more overwhelming majority than existed in Bihar, and very often have turned the majority into a minority. I am here, not as the representative of the Bihar Planter but as the representative of the District Boards of the Tirhut Division, and I know that I have the confidence of the majority of the Indian members of those Boards, and to give an instance, although there was a majority of non-official Indians on one Board I had their full support. Again, the Hon'ble Member in conclusion quotes numbers but he does not mention that previous to the slump in Indigo, the capital sunk in European estates was estimated at something like 3½ millions sterling, nor does he make any reference to the very large sums that have been sunk in the past 10 years in erecting Sugar Factories. He talks about justice and equity. The Tirhut Planter asks for nothing more. He asks for no favour, he and his forefathers have now been connected with Bihar for more than a century. His interests are bound up with the zemindar and raiyat and he is just as much a Bihari, and his love for the land of his adoption is just as strong as that of the majority of its inhabitants. When I first received a copy of the Hon'ble Member's resolution, I thought he must have been ignorant of the large addition of Indian members that have lately been made to the Boards, but I have now come to the conclusion that with him it is another case of 'Oliver Twist,' and the Hon'ble Member should bear in mind that no reasonable human being would ever think of starting down a steep hill on a bicycle unless he had a good break on it, and that break in order.

"Does he now propose that the Boards should be further enlarged or does he propose that the present Planter representation should be reduced? If the Boards are to be further enlarged they will become unwieldy, as occasions even now arise where there is sometimes a difficulty in getting a quorum with the present Boards. The Hon'ble Member remarks there is not much to be complained against the present constitution of the Hajipur Local Board. Is

be aware that, as in the previous year, the minimum number of meetings, namely one a month, was not secured by this Board. It only met eight times during the year, three meetings failing for want of a quorum. If reduction of the Planter representatives is to be made, then the present efficiency of the Boards will be seriously interfered with, and the Planters, it must be borne in mind, who pay a very considerable amount of Road Cess, would, I fancy, have a good deal to say to any interference with their rights, considering the stake they hold in the Districts. I can speak with more than 34 years' experience of North Bihar, and I have had the honour to have served on the old Road Cess Boards, and the Local and District Boards in the Districts of Monghyr, Muzaffarpur and Saran, and I have invariably found that the most active members of the various Boards have been the Planters and Zemindari Managers—men who think nothing of riding or driving 30 or 50 miles in the hottest weather or during the rains in order to attend Board meetings,—and what better advice can the Boards have than that of men who are daily using the roads and communications throughout the 4 Districts, are in touch with the people, and can keep an eye on, and superintend, the Boards' schools and dispensaries that may be situated on or in the vicinity of their estates? And the fact should not be lost sight of that a large number of the roads were originally constructed and maintained by the Tirhut Indigo Planters, more than eighty or ninety years ago, ages before any Ferry-fund, Road Cess, District or Local Boards took charge of them.

"Is there a general demand by the rate-payers of the District and Local Boards for greater representation than they have at present? I emphatically say there is not. I am proud of the fact that I number many personal friends amongst the Zemindars and rate-payers in North Bihar, and not in one single instance has any one of them ever mentioned the subject to me, and surely it is but natural that their representative on this Council would have heard something of the matter if they are dissatisfied with the present constitution of the Boards.

"How is it, if the non-official Indian community in North Bihar is so very anxious to serve on District and Local Boards, that up-to-date in the 4 districts there is only one Union Committe (and the President of that is a Planter). I believe I am correct in saying that when Lord Ripon introduced the Local Self-Government Act the Union Committees were supposed to be the starting point and were to be a stepping stone to the Local and District Boards. Communities, just the same as individuals, have to learn to walk, before they can run.

"From what classes are more members to be appointed? Undoubtedly, if many more of our leading Zemindars and landed proprietors would take an active interest and serve on our Boards, it would be of considerable advantage. The advice of those who do now serve is very valuable. One great difficulty in North Bihar is to find qualified non-official Indians away from head quarters. The principal source would be members of the legal profession, and the present percentage on our Boards is 14 per cent. Although I have the greatest respect and admiration for the ability and cleverness of the profession, I am of opinion that gentlemen while following their daily vocation seated in a cool well ventilated Court, or Bar Library or beneath the shade of the spreading Peepal tree in the Court compound, cannot be any better representatives of the payers of Road Cess than the Planter or Zemindar, who is daily using the Roads, Bridges and Ferries of the Districts. I am old fashioned enough to still believe in the old saw 'The cobbler should stick to his last.' We are justly proud of our Roads and Bridges in the Tirhut Division and the efficiency of our communications is due to the competent Chairmen and Engineers who have served the Boards and who accepted the practical, sound, common sense advice of the members of the Boards as they have existed up to date.

"Sir, and Gentlemen of the Council, I hope that not one single word of what I have said would lead you to suppose that I am not in full sympathy with the wisdom of Government in desiring that the Bihari community should be trained in the principles of Self-Government in order that as soon as they are duly trained they can take their full share in the administration of the country. I heartly approve of the action lately taken to carry this into effect, but I view

with the gravest disapproval any policy which would have the effect of forcing into a position of serious responsibility, men who do not possess the necessary experience, and knowledge, and on these grounds I would impress the importance of allowing time for the necessary training.

"I have now to ask you, Sir, to allow the amendment standing in my name to be put, and I earnestly appeal to the Members of this Council, official and non-official, to support it. Our District Boards in Bihar have done good work in the past. Considerable additions of Indian members have been made in the last year. In the interest of the Boards I ask that ample time be given to prove if the additions lately made work for the general welfare of the districts."

The Hon'ble Rai Kisori Lal Goswami Bahadur said:—"Your Honour, we have listened to what the Hon'ble Babu Braja Kishor Prasad has said in justification of a demand for a larger representation of the Biharis on the Local and District Boards of the Tirhut Division. Since 1908, the question has been pressed upon Government off and on with becoming moderation and firmness which indubitably proves that there has sprung up an earnest desire on the part of capable Biharis to participate in the work of advancing the rural wealth and welfare of the Tirhut Division, so far as can be achieved through the agency of the Local and District Boards. But I regret I miss in the Hon'ble Member's speech a recognition of what the Government has done since 1908, in pursuance of the policy enunciated by the late Lieutenant-Governor Sir Andrew Fraser in reply to the address which was presented to him by the three leading Associations of Bihar—a policy which has so far as possible been scrupulously followed by the present Government as a comparison of the personal composition of the new and old Boards will testify. My Hon'ble colleague has marshalled facts and figures in such a way as to create an impression on those unconnected with the Tirhut Division that the claims of the Biharis have been absolutely ignored by the Government in the formation of local bodies in that Division and that European planters have been introduced into such bodies to an extent which, if judged merely by the test of population statistics, cannot but be condemned. I do not propose to strictly scrutinize the figures which he has introduced in his speech, but I shall rest contented by referring to certain salient facts which I trust will facilitate a clear understanding of the real situation by the Council. I shall also place certain tabular statements before the Council which will convey a clear idea of the composition of the Boards at the present time.

"The Government is in sympathy with the aspirations of non-official Biharis for representation on the Boards, and has only recently given a practical demonstration thereof by the appointment of 12 additional non-official Indians to three District Boards and 8 additional non-official Indians to four Local Boards. This is a material advance in this direction, and the results of the experiment may well be seen before anything further is done. It was only yesterday that unofficially I came to know that in the case of the Gopalganj Local Board the two additional seats have been given to Europeans which, according to instructions from Government, should have been filled by Bihari gentlemen. We shall make inquiries about this.

"The circumstances of Tirhut are peculiar by reason of the presence of the European Planting community which, with the decline of the indigo industry, has been relegated to the position of lessee-zamindars holding extensive lands under the zamindars, and they contribute substantially to the receipts under road cess, if not directly to the Collectorate but through the zamindars. As illustrating the extent of the interest of the planting community in North Bihar the following figures are remarkable. I take the figures from the Darbhanga Final Settlement Report, paragraph 502. The percentage of the total district area held by the planters as landlords was as follows:—

Darbhanga	... 6	Muzaffarpur	... 17

[*Rai Kisori Lal Goswami Bahadur.*]

"If the Darbhanga figures are analysed by subdivisions, the percentage are as follows:—

Madhubani	... ·06	Sadar	... 5·7
Samastipur	... 20·1		

"It is on the Samastipur Local Board that planters are strongest, and in that subdivision their interests are considerable. The subdivisional figures in Muzaffarpur are as follows:—

Sitamarhi ...	... 6·8	Sadar	... 29·9
Hajipur	... 12 3		

The Champaran figures are more striking:—

Bettiah	... 34·9	Sadar	... 58·5

"In one thana in the Sadar (Kesaria) the percentage is as high as 73 and in two (Dhaka and Gobindganj) it is as high as 63. These figures are taken from the Final Settlement Reports of the different districts, which were compiled between the years 1900 and 1904, but I presume in spite of the decline of the indigo industry, there has not been a considerable decline in the area of land held by the planting community at the present moment. As illustrating the minute subdivision of the proprietary interests in Tirhut (other than Champaran), the following figures taken from the settlement reports are instructive:—

		Total number of proprietors.	Average area in acres under each proprietor.
Darbhanga	...	135,178	16
Saran	...	116,090	14
Muzaffarpur	...	163,933	12

"The planters are well acquainted with the needs of the districts, in all portions of which they reside, and they are interested in the efficient discharge of the various duties with which the Boards are concerned. They are excellently fitted by training and activity to voice the needs of the different localities both as speaking for themselves and for their Indian neighbours and they can in no sense be regarded as interlopers dissociated from the real interests of the districts and ignorant of their conditions. Past experience has amply demonstrated their usefulness as members of the Boards. So far as the works of the Boards go, the interest of the European planters and the permanent Bihari residents are absolutely identical.

"On the other hand, the Bihari community is backward, and there are various circumstances which render it difficult, in spite of the earnest endeavours of the local officers in that Division, to find numerous suitable representatives among them. Bihar is largely parcelled up into large zamindaris—those of Darbhanga, Bettiah, Hutwah, Narhen, Sheohar, Madhubani, Ramnuggur, etc.—the owners of which would not in some cases be willing to accept seats on the Boards, and in others are ineligible (at the present moment) by reason of sex or age. Below them is a multitude of tenure-holders who are essentially small men fitted neither by education nor status to take a place on the Boards. There remains the educated community at head-quarters, but they are not as a rule well acquainted with the wants of the interior of the district, and it is not desirable that they should preponderate on the Boards, the members of which should, as far as possible, represent the landed interest of different parts of the districts.

"In some instances the European non-official members of the Boards represent the interests of the large zamindars on whose estates they are employed. Thus in May 1910, the Commissioner of the Tirhut Division reported that of the European element on the District Board of Darbhanga four were employés of the Raj Estate.

[*Rai Kisori Lal Goswami Bahadur.*]

"I shall now place before you a tabular statement showing the respective proportions of the non-official members of the two communities at the present moment. That statement will go to show that the remark of the Hon'ble Mover of the resolution that the District and Local Boards of the Tirhut Division are practically manned and absolutely controlled by the European community is not correct. Excluding the Chairman, the figures show that in Local Boards the numbers of the European and Indian communities respectively are equal in Samastipur, and that elsewhere, with the exception of Gopalganj, the Indian community is in the majority. In the District Boards the European community preponderates in Champaran and Darbhanga, but both in Saran and Muzaffarpur the Indian community is in the majority. I must observe that my Hon'ble colleague is not fair in excluding Government pleaders on the Boards in counting the Indian representatives.

District Board.	Total membership exclusive of Chairman.	European members.		Indian members.	
		Official.	Non-official.	Official.	Non-official.
Saran	25	5	6	2	12
Champaran	20	5	8	2	5
Muzaffarpur	25	4	7	3	11
Darbhanga	25	5	13	2	5

Local Board.	Total membership exclusive of the Chairman.	European members.		Indian members.	
		Official.	Non-official.	Official.	Non-official.
Sewan	10	1	3	1	5
Gopalganj	10	...	6	1	3
Hajipur	10	1	2	...	7
Sitamarhi	10	...	4	1	5
Madhubani	10	1	3	1	5
Samastipur	10	1	4	...	5

"The Hon'ble Mover of the resolution has incidentally raised the question as regards the eligiblity of subdivisional officers to sit upon the District Boards as representatives elected by the Local Boards which at best has a remote bearing on the resolution. However, the answers given to-day to the questions of the Hon'ble Mr. Dip Narayan Singh will be accepted as a satisfactory solution of the question.

"I shall now submit before the Council another tabular statement showing the respective proportions of the non-official members of the two communities. The figures in that statement show that in all the Local Boards, with the exception of Gopalganj, the percentage of non-official Indian members is higher than that of the corresponding European members, while it is only in the Champaran and Darbhanga District Boards that the European non-officials outnumber the Indian. In Saran and Muzaffarpur it is much the reverse. If we deduct the four European Raj members from the non-official European members in Darbhanga, we reduce the percentage from 52 to 36, while the case of Champaran, which is a very backward district, is essentially special. Seventy-four per cent. of the land revenue of the district is contributed by the three big estates—Bettiah Raj, Madhubani and Ramnuggur. The Bettiah Raj is represented on the Board by its Manager, but the proprietors of Madhubani and Ramnuggur estates do not themselves care to be members of the Board. The vast majority of the remaining zamindars of the district are little better than ordinary cultivators. Under the present

[*Babu Braja Kishor Prasad; The President.*]

circumstances, it will unduly reduce the efficiency of this Board if the European planters are largely replaced by local Bihari gentlemen—

District Boards.

	Total membership.	Percentage of non-official members.	
		European.	Indian.
Saran	25	24	48
Champaran	20	40	25
Muzaffarpur	25	28	44
Darbhanga	25	52	20

Local Boards.

Sewan	10	30	50
Gopalganj	10	60	30
Hajipur	10	20	70
Sitamarhi	10	40	50
Madhubani	10	30	50
Samastipur	10	40	50

"The last point raised by the Hon'ble Mover of the resolution is the question of the desirability of introducing the elective system in the formation of the Local Boards of the Tirhut Division. This is but indirectly connected with the resolution. I shall not certainly ignore it on that ground. I can assure my Hon'ble colleague and others interested in advancing the political aspirations of the people of the Tirhut Division that Government will make a careful inquiry through the local officials to ascertain what localities have attained the condition which will permit of the introduction of the elective principle in the formation of Local Boards with advantage to the localities and the residents therein. I shall now conclude, repeating the assurance that the Government will not be remiss to constitute local bodies on strictly representative lines when the existence of capability and genuine public spirit in the people of any locality will be realized. Bihar is coming forward in rapid strides. The representation of Bihar in this Council abundantly testify to that fact. I beg to point out that nine elected Bihari gentlemen and one nominated Bihari gentleman have seats in this Council. This is exclusive of the Hon'ble Babu Bal Krishna Sahay who is a Bihari domiciled in Chota Nagpur. Though I am not in a position at the present moment to state definitely on behalf of Government what further advances will be made to ensure a larger introduction of the Bihari element into the Local and District Boards of the Tirhut Division, still I feel confident that after what I have said my Hon'ble colleague has been convinced of the earnest desire on the part of Government to recognize the just claims of the Biharis, and I trust he will not press his resolution and call for votes on it."

The Hon'ble Babu Braja Kishor Prasad said:—"Though I do not at all agree with what has fallen from the Hon'ble Mr. Filgate or what has been said by the official member in charge of the administration of Local Self-Government, and though I doubt the correctness of the figures which have been given by him, because, Sir, I can assure you that the figures which I have got as regards the number of members of the District Boards have been taken very carefully and directly from the District Boards, still in view of the assurance given by the Government, I think it would be proper for me to withdraw the resolution. But of course I shall not be deprived of the right of bringing it again before the Council next year and shall see if anything is done in the meantime."

The President said:—"Before the resolution is withdrawn, unless the amendment which has been proposed to it is withdrawn also, it will be necessary to obtain the concurrence of the Hon'ble Mover of the amendment. That is a course which was adopted on a similar occasion in the past. Does the Hon'ble Member consent to the withdrawal of the amendment? If so, both the resolution and the amendment can be taken as withdrawn."

[*Mr. Filgate; The President.*]

The Hon'ble Mr. Filgate said:—"Certainly Your Honour. I presume and understand that time will be allowed to see how the considerable concessions that have now been made work."

The President said:—"In that case I think that there is no question that the resolution should be withdrawn and I desire to say that in my judgment the Hon'ble Babu Braja Kishor Prasad has acted wisely in accepting that suggestion, for it seems to me that he has selected (whatever may be the merits of the resolution) a somewhat unfortunate time for raising this question. It is only within the last three or four months that steps which he himself has described as concessions have been taken by Government with the active object of giving effect to the requests that were made to Sir Andrew Fraser two and-a-half years ago. Surely, gentlemen, it is premature to seek to force the pace and to demand further steps in the same direction until experience has been gained in the working of the new system. The Hon'ble Mr. Filgate has in a temperately-worded amendment expressed the opinion that the consideration of the question of further extending Bihari representation is premature. That is entirely the view which I myself had formed. Time should be given to understand the actual operation of the system which has been introduced so lately as November of last year. When experience has been gained, when we have got the opinion of the local officers and of the Bihar representatives themselves, and also of the planters, then I think the time will come to consider what further advance should be made in the same direction.

"I think, gentlemen, that the resolution and the amendment may be taken as withdrawn."

The resolution and amendment were accordingly withdrawn.

The Council was then adjourned to Saturday, the 4th March, 1911, at 11 A.M.

F. G. WIGLEY,

Secretary to the Bengal Legislative Council.

CALCUTTA,

The 3rd March, 1911.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Saturday, the 4th March, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. A. SLACKE, C.S.I., Vice-President, *presiding*.

The Hon'ble MR. F. W. DUKE, C.S.I.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. W. R. GOURLAY.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MAHARAJA SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, KT.

The Hon'ble KUMAR SHIBA NANDAN PRASAD SINGH.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. J. C. SHORROCK.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble BABU BAL KRISHNA SAHAY.

[*Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

PROMOTION OF DEPUTY SUPERINTENDENTS AN ASSISTANT SUPERINTENDENTS OF POLICE.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

(*a*) Has the attention of the Government been drawn to the leading article headed "the Police and Educated Indians" in the *Bengalee* of the 7th February, 1911?

(*b*) Is it a fact that all the Deputy Superintendents of Police who were appointed direct have been superseded by non-graduate Deputies who were promoted from Inspectorships, though the latter were promoted to the Provincial Service after the appointment of the former?

(*c*) Is such accelerated promotion and supersession usual in other branches of the public service?

(*d*) If so, to what extent, and what is the reason for such differentiation?

(*e*) Did Indian Assistant Superintendents who were promoted from the rank of Inspector and Sub-Inspector under the old scheme in any case supersede European Assistant Superintendents (Provincial Service) appointed direct?

(*f*) If not, is there any reason for such differentiation of treatment in the same service?

(*g*) Is it a fact that almost all the Deputies promoted from Inspectorships have officiated, at some time or other, as Superintendents, and that not more than one Deputy appointed direct has had a similar chance?

(*h*) If so, what is the cause?

The Hon'ble MR. WHEELER, in the absence of the Hon'ble MR. STEVENSON-MOORE, replied:—

(*a*) "The answer is in the affirmative.

(*b*) The answer is in the affirmative, though it may be added that one of the promoted Inspectors who have passed over the heads of officers appointed direct is a graduate.

(*c*) & (*d*) The Hon'ble Member is referred to rule 8 of the 'Rules for Admission to the post of Deputy Superintendent of Police' which prescribes that 'promotion will be awarded strictly by selection according to merit.' In the exercise of that principle, it has necessarily been found that the merits of the promoted officers, who have rendered long and good service in the department, have outweighed those of the young officers appointed direct. It must be remembered that the service of Deputy Superintendent of Police is a service of less than five years' standing, and that the officers appointed direct have not yet acquired sufficient experience to prove their merit; in course of time it may confidently be expected that they will win their due share of promotion, and as they are at the beginning of their service and have been superseded by officers who are approaching the time for retirement, the advancement of those who show themselves worthy of it will not be seriously impeded. On the other hand, if these young officers were to fill up all the places in the higher grades, officers promoted from the rank of Inspector would be completely blocked and could never rise above the lowest grade of Deputy Superintendent. In the other Provincial Services, such as the Provincial Judicial and Executive Civil Services, all officers are of the same class and the rules assign greater weight to seniority in making promotions; their conditions consequently are not comparable with those of the Police Service.

(*e*) If by the term 'European Assistant Superintendents of the Provincial Service', the Hon'ble Member refers to European Assistant Superintendents attached to the Bengal Police before the Police became an Imperial Service, the answer is in the affirmative.

(*f*) The Hon'ble Member is referred to the answer to Question (*e*) above.

[*Khan Bahadur Maulvi Saiyid Zahir-ud-din; Mr. Wheeler; Babu Braja Kishor Prasad; Mr. Finnimore.*]

(*g*) The answer to the first question is in the affirmative; that to the second in the negative; six Deputy Superintendents of Police who received direct appointments have officiated as Superintendents.

(*h*) The Hon'ble Member is referred to the answer to Question (*g*) above."

AMENDMENT OF THE BENGAL MUNICIPAL ACT, 1884.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN, in the absence of the Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN, asked:—

Will the Government be pleased to state whether the Bengal Municipal Act, 1884, is likely to be amended during the present Legislative Session?

The Hon'ble MR. WHEELER replied:—

"There is no intention of proceeding with the amendment of the Bengal Municipal Act during the current Legislative Session."

FLOODS AND WATERWAYS.

The Hon'ble BABU BRAJA KISHOR PRASAD asked:—

(*a*) Has the Government received the report of Mr. Perrott, District Magistrate of Darbhanga, dated the 12th December, 1910, on the result of the joint inquiry held at Lahiriasarai on the 17th December, 1910, in pursuance of the Government of Bengal's letter No. 774T.—R., dated the 25th October, 1910, and the Railway Board's letter No. 3162R.C., dated the 17th October, 1910?

(*b*) Will the Government be pleased to state what the scope of the said joint inquiry was?

(*c*) Has the attention of the Government been drawn to the recommendations of Mr. Perrott contained in paragraph 10, clauses (1), (2), (3), (5) and (7) of the said Report?

(*d*) Does the Government intend to take any action on the said recommendations, and, if so, what?

(*e*) Does the Government intend to move the Railway Board or the Railway Company concerned to provide sufficient waterways between Lahiriasarai and Kishunpore and in the line (Tirhut Section) generally?

The Hon'ble MR. FINNIMORE, in the absence of the Hon'ble MR. BUTLER, replied:—

(*a*) "The reply is in the affirmative. The date of Mr. Perrott's report should be 21st December, 1910, and not 12th December, as stated.

(*b*) The inquiry was into the alleged causes of the excessive floods of 1910, which included the obstructions to the Chota Bagmatti river in the town of Darbhanga and the obstructions of the drainage between Darbhanga and Samastipur by landowners' embankments, and was made with a view to the results being reported and remedies suggested.

(*c*) Government have seen these recommendations.

(*d*) A further report which the Commissioner has promised is awaited before deciding what action, if any, should be taken by Government.

(*e*) The action to be taken by Government must wait till the whole question of the disposal of the flood spill from the Bagmatti has been settled."

FLOODS IN DARBHANGA.

The Hon'ble BABU BRAJA KISHOR PRASAD asked:—

(*a*) Will the Government be pleased to state whether it has received the report of the Commissioner of Tirhut about the last floods in the district of Darbhanga?

(*b*) If so, does the Government intend to make a thorough inquiry into the causes of these floods and to take the necessary steps to save the district from these floods?

The Calcutta Improvement Bill, 1911.

[*Mr. Finnimore; Mr. Bompas.*]

The Hon'ble MR. FINNIMORE, in the absence of the Hon'ble MR BUTLER, replied:—

(*a*) "The reply is in the affirmative.

(*b*) The Commissioner of Tirhut, after obtaining the opinions of the District Boards of Champaran, Muzaffarpur and Darbhanga, intends to refer the whole question to a Divisional Conference. The opinion of the Conference is awaited."

THE CALCUTTA IMPROVEMENT BILL, 1911.

The Hon'ble Mr. Bompas presented a preliminary report by the Select Committee on the Bill to provide for the Improvement and Expansion of Calcutta.

He said:—

"Sir,—I beg to present the preliminary report submitted by the Select Committee on the Calcutta Improvement Bill, and in doing so, I may briefly explain why we have adopted the somewhat unusual course of submitting a preliminary report.

"The Members of this Council will remember that one of the features of the Bill was the provision for the imposition of a tax on jute, an excise on raw jute consumed at the Mills, and an export duty on raw jute exported from the port of Calcutta. Most of the important Associations consulted criticised these proposals, and after consideration of these criticisms, the Government of Bengal made a reference to the Government of India on the subject. No answer has yet been received to that reference, and, pending the disposal of that matter, it was impossible for the Select Committee to proceed with the consideration of those clauses [1] in Chapter V which dealt with the jute tax.

"The Select Committee has held 34 sittings and has dealt with considerable thoroughness with the rest of the Bill, and has introduced several important changes. Whatever decision may be come to with reference to the tax on jute, the recommendations of the Select Committee with regard to all the remaining clauses of the Bill will be unchanged, and it was therefore thought that as the results of the labours of the Select Committee were lying ready to hand, it was better that they should be submitted to the Council and the public be given an opportunity of studying and criticising them.

"Under these circumstances, I beg to present the preliminary report of the Select Committee."

The Council was then adjourned to Monday, the 13th March, 1911, at 10-30 A.M.

CALCUTTA,
The 8th March, 1911.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

[1] *Vide* clauses 73 to 76.

B. G. Press—9-3-1911—4467J—950—E. J. H.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Monday, the 13th March, 1911, at 10-30 A.M.

Present:

The Hon'ble SIR EDWARD NORMAN BAKER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble MR. F. W. DUKE, C.S.I.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. W. R. GOURLAY.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MAHARAJA SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, KT.

The Hon'ble KUMAR SHIBA NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble RAJA RAJENDRA NARAYAN BHANJA DEO.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN, BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

QUESTIONS AND ANSWERS.

SYEDPUR TRUST ESTATE.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

I.—(*a*) Will the Government be pleased to state whether the Rs. 2,08,092, shown as total receipts of the gross income of the Syedpur Trust Estate in the statement laid on the table at the meeting of the Legislative Council held on the 18th February, 1911, represents only the gross income of the zamindari, or whether it also includes the interest of the Trust Fund, called the Muhammadan Mohsin Fund Education Endowment Fund?

(*b*) Will the Government be pleased to lay on the table—

(*1*) the last year's consolidated account of all shares of the above Trust Fund, as maintained in the office of the Accountant-General, Bengal, and

(*2*) the last year's estimate of the Trust Fund, framed by—

(*i*) the Local Agents, Hooghly, as regards the Hooghly charges,

(*ii*) the Director of Public Instruction, as regards the Educational charges incurred in connection with Muhammadan education in Bengal, and

(*iii*) the Public Works Department of Government, as regards the construction and repairs of buildings, such as Mosques, Madrassas, etc?

The Hon'ble MR. CUMMING replied:—

"(*a*) The amount represents only the gross income of the zamindari known as the Syedpur Trust Estate.

(*b*) (1) A statement is laid on the table.

(*b*) (2) Column 8 of the budget estimates of the Mohsin Endowment Fund for the year 1909-10, which have already been placed on the table of this Council, furnishes the information required by the Hon'ble Member."

[*Mr. Cumming.*]

Statement referred to in the answer to Question No. I.

REVISED ANNUAL ACCOUNT OF THE MOHSIN ENDOWMENT FUND FOR THE YEAR 1909-10.

...TS.	⅓th share of the Matwali.	⅙th share for religious purposes.	⅓th and ⅙th shares for secular and educational purposes.	Total.
...l ENDOW-...t.	Rs. A. P.	Rs.	Rs. A. P.	Rs. A. P.
...Estate ...	6,666 10 8	20,000	33,333 5 4	.....
...ty	.....	.....	200 0 0	.....
...ed Invest-	.....	.....	36,902 8 2	.....
...ariable In-	.....	.....	8,156 1 6	1,00,258 9 8
...NEOUS.				
... ...	.....	.....	1,098 14 6	1,098 14 6
...pts ...	6,666 10 8	20,000	74,685 13 6	1,01,352 8 2
...lance ...	.....	.....	.....	10,784 1 11
...lt) balance	.....	.....	.....	3,698 9 7
...OTAL ...	6,666 10 8	20,000	74,685 13 6	1,15,835 3 8

EXPENDITURE.	⅓th share of the Matwali.	⅙th share for religious purposes.	⅓th and ⅙th shares for secular and educational purposes.	To...
EDUCATION.	Rs. A.	Rs.	Rs. A. P.	Rs.
1. Grants to Madrassas	.....	.....	190 0 0	...
2. Expenditure for boarders in the Muhammadan Hostel attached to the Hooghly College.	.....	.....	2,971 6	...
3. Scholarships	.....	.....	4,643 7 8	...
4. Short-fee payments by Muhammadan students—	.....	.....	.....	...
(a) In Government Colleges.	.....	.....	18,313 0 0	...
(b) In Government Schools.	.....	.....	4,395 8 0	...
(c) In private Colleges.	.....	.....	1,964 9 0	...
(d) In private Schools.	.....	.....	1,461 11 8	...
5. Grant for expenditure in Eastern Bengal and Assam.	.....	.....	30,000 0 0	61,93
MEDICAL.				
1. Contribution to Dufferin Hospital.	.....	.....	1,200 0 0	...
2. Unani Dispensary ...	.....	.....	2,112 6 2	...
3. Contribution to Imambara Hospital.	.....	.....	9,348 0 0	...
(a) House rent ...	.....	.....	240 0 0	12,9
MISCELLANEOUS.				
1. Pensions	.....	.....	901 13 0	...
2. Local Agents' establishments.	.....	.....	948 2 10	...
3. Miscellaneous ...	.....	.....	610 0 0	2,45
RELIGIOUS ENDOWMENT.				
1. Matwali's ⅓th share—				
(a) Pension of the late Matwali.	3,333 5	.....	.....	...
(b) Salary of his successor.	3,333 5	.....	.....	...
2. Committee's ⅓th share	.....	20,000	.....	...
3. Imambara establishment.	.....	.....	9,545 5 0	...
4. Compensation for dearness of provisions.	.....	.....	2,323 9 10	38,53
TOTAL PAYMENTS ...	6,666 10	20,000	89,168 9 8	1,15,83

...e increased expenditure on account of short-fee payments by Muhammadan students in the past two years, 1908-09 and 1909-10, amounting to Rs. 17, ..., respectively, the accounts closed with a deficit balance of Rs. 3,698-9-7, and if no contribution were given from the Provincial Revenues, the accou... ...-11 would close with a deficit balance of Rs. 9,000. In order to make good this deficit a special contribution of Rs. 9,000 has been made to the ... ...n the understanding that the amount will be recovered during the year 1911-12.

[*Khan Bahadur Maulvi Sharfaraz Hasain Khan; Mr. Cumming; Mr. Butler.*]

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

II.—(*a*) Will the Government be pleased to state whether the annual reports of the administration of the Syedpur Trust Estate and the Trust Fund are published ?

(*b*) If so, will the Government be pleased to lay on the table the last year's annual report ?

The Hon'ble MR. CUMMING replied :—

"(*a*) Particulars regarding the administration of the Syedpur Trust Estate are included in the report on the Wards and Attached Estates which is annually submitted to Government by the Board of Revenue, L. P., and is available to the public. It has recently been decided that an abstract of the accounts of the Mohsin Endowment Fund as maintained in the office of the Accountant-General, Bengal, will be annually published in the Calcutta Gazette.

(*b*) For an account of the Mohsin Endowment Fund for the year 1909-10 the Hon'ble Member is referred to the answer to his question I (*b*) (1) above."

PATNA COLLEGIATE SCHOOL.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

III.—(*a*) Does the Government intend to remove the Patna Collegiate School from the hired house in which it is located ?

(*b*) If so, will the Government be pleased to state what site, if any, has been selected for the purpose ?

The Hon'ble MR. CUMMING replied :—

(*a*) "It is the intention of Government, when funds permit, to remove the Patna Collegiate School from the rented premises in which it is at present housed.

(*b*) No site has yet been definitely selected."

EXTENSION OF BENGAL ACT I OF 1876 (THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES REGISTRATION ACT, 1876.)

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

IV.—(*a*) Does the Government see any objection to extending Bengal Act I of 1876 to the districts of Patna and Muzaffarpur ?

(*b*) If so, will the Government be pleased to state the objection ?

The Hon'ble MR. CUMMING replied :—

"The Government have no objection to the extension of the Act to the districts of Patna and Muzaffarpur provided that a genuine desire exists amongst the Muhammadans of these districts to avail themselves of the provisions of the Act; but the experience in the other western districts of Purnea, Bhagalpur and Monghyr tends to show that this is very doubtful."

PROTECTION OF MUZAFFARPUR FROM FLOODS.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

V.—Will the Government be pleased to state whether any scheme for the protection of Muzaffarpur from flood is under the consideration of the Government ?

The Hon'ble MR. BUTLER replied :—

"There is no scheme at present under consideration for the protection of Muzaffarpur from floods. A communication has very recently been received from the Commissioner of the Division on the subject, and it is under consideration."

[*Khan Bahadur Maulvi Sharfaraz Husain Khan; Mr. Finnimoore; Mr. Wheeler; Mr. Bompas.*]

CONSTRUCTION OF A RESIDENCE FOR THE COMMISSIONER OF THE TIRHUT DIVISION.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

VI.—Will the Government be pleased to state whether plans and estimates have been prepared for the construction of a residence for the Commissioner of the Tirhut Division?

The Hon'ble MR. FINNIMORE replied:—

"Final plans and estimates have not yet been prepared."

PATNA MUNICIPALITY FLUSHING SCHEME.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

VII.—Will the Government be pleased to state the time by which work on the Patna Municipality Flushing Scheme will be taken up?

The Hon'ble MR. WHEELER replied:—

"No definite time can at present be specified. The Sanitary Engineer has drawn up a rough project for a combined water supply and flushing scheme, at an estimated cost of Rs. 2,61,000, and the local Municipality is about to be addressed on the subject of his proposals."

ADMISSION OF MUHAMMADAN STUDENTS INTO THE MEDICAL COLLEGE.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked:—

VIII.—Is it a fact that there has been no admission of Muhammadan students into the Calcutta Medical College during the last two years?

The Hon'ble MR. WHEELER replied:—

"Admissions to the Medical College are made in June each year. The numbers of Muhammadan students admitted during 1909-10 and 1910-11 were *nil* and one, respectively."

THE CALCUTTA IMPROVEMENT BILL, 1911.

The Hon'ble Mr. Bompas presented a further Report by the Select Committee on the Bill to provide for the Improvement and Expansion of Calcutta.

He said:—

"Sir, I beg to present a further Report prepared by the Select Committee on the Bill for the Improvement and Expansion of Calcutta. I explained at the last meeting of this Council why the Select Committee had deemed it advisable to submit an *ad interim* report covering the whole of the Bill with the exception of the provisions relating to the levy of a tax on jute. The sanction of Government was subsequently received to the modification of the proposals relating to the levy of that tax. In place of an excise duty on raw jute consumed at the mills, it is now proposed to levy an export tax on manufactured jute exported from the port of Calcutta. The Select Committee have thereupon introduced the necessary modifications in Chapter V of the Bill and have embodied a few consequential amendments, and now submit a further and final report."

THE REVISED FINANCIAL STATEMENT, BENGAL, 1911-12.

The Hon'ble Mr. Duke presented the Revised Financial Statement, Bengal, for 1911-12.

REVISED FINANCIAL STATEMENT, BENGAL, 1911-12.

FINANCIAL DEPARTMENT.

FINANCE.

CALCUTTA, THE 11TH MARCH 1911.

MEMORANDUM.

IN accordance with rule 10 (*4*) of the rules for the discussion of the Financial Statement, published with Notification No. 4033 F., dated the 28th December 1909, the following memorandum is circulated indicating the alterations in the figures which have been made since the issue, on the 2nd instant, of the amended draft Financial Statement for 1911-12.

2. The following changes have been made under the orders of the Government of India :—

Revised Estimates, 1910-11.

RECEIPTS.

	Rs.	
V. Excise (Provincial share) ...	+1,00,000	In view of latest actuals.

CHARGES.

	Rs.	
45—Civil Works in charge of the Public Works Department ...	—1,00,000	The provision of Rs. 50,000 for the Monghyr Central Jail has been omitted since work will not be started during the current year. Rs. 50,000 has further been deducted here, in order to arrive at a nearer approximation to the probable Provincial balance of the year while avoiding a number of petty alterations proposed under several major heads.
Closing balance for 1910-11 ...	+2,00,000	

Budget Estimate, 1911-12.

RECEIPTS.

	Rs.	
V. Excise (Provincial share) ...	+75,000	In continuation of the increase in the Revised Estimate.

CHARGES.

	Rs.	
19—A. Courts of Law	+2,40,000	Enhanced expenditure on Counsels' fees is anticipated in connection with Political cases. The total provision under sub-head Legal Remembrancer and High Court Pleaders will now stand at Rs. 5,14,000.
24—Medical	+13,000	It is probable that a grant-in-aid for new buildings will be made during the year to the Lovis Jubilee Sanitarium, Darjeeling, and provision has been made accordingly.
43—Irrigation Minor Works and Navigation (Provincial share)	+11,000	This is on account of the Bagjola Drainage Scheme which is in progress. The Public Works Department surrendered Rs. 22,000 on this account during the current year, to be regranted during 1911-12.

CHARGES—*concld.*

	Rs.	
45—Civil Works in charge of Public Works Department ...	+1,70,000	The provision of Rs. 2 lakhs on account of the Monghyr Central Jail has been raised to Rs. 3,70,000 as the early completion of the work is desirable, and it is anticipated that progress can be made during the year to this extent.
Closing balance for 1911-12 ...	—1,59,000	

In other words the closing balance for 1911-12 will now stand at Rs. 85,77,000.

3. The Finance Committee of Council met on the 6th instant, and considered the proposed expenditure of Rs. 5,96,600 upon new Civil Works in charge of the Public Works Department as detailed on pages 20-22 of the notes accompanying the Revised Financial Statement, and in accordance with their recommendations the following changes have been made:—

	Rs.	
Lines for new Military Police in the neighbourhood of Calcutta ...	—25,000	It was considered that the provision of Rs. 1,75,000 might safely be reduced to this extent, as it is not probable that greater progress could be made with the work during the ensuing year.
Construction of quarters for Munsifs	+20,000	There was already a provision of Rs. 6,000 on this account in the Public Works Department Budget. This has been raised in order that more rapid progress may be made.
Contribution towards the construction of quarters for the Medical Officer at the Fraser Hospital, Burdwan...	+5,000	The total cost of the work is estimated at Rs. 15,000. Of this it is contemplated that Government will contribute Rs. 5,000.
Inspection bungalow, Danton ...	—6,700	This has been omitted as the need for it did not appear to be urgent.
Construction of quarters for a Sub-Deputy Collector, Asansol ...	+6,700	This work has been represented to be urgently required.

4. Since the circulation of the amended draft Financial Statement it has been found necessary to make a provision of Rs. 1 lakh for the construction of the new Civil Engineering College at Ranchi. It had been intended that this should be met from the special assignment of Rs. 12 lakhs from the Government of India on account of non-recurring expenditure in the Education Department, but it is understood that the conditions imposed by the Imperial Government will preclude this course. Consequently it has been necessary to substitute this project for others which it had been the intention previously to undertake from the grant to the Public Works Department for Civil Works, and it is proposed that the following should be omitted:—

	Rs.
Residence of the Commissioner, Tirhut Division ...	50,000
Grants to Commissioners and Heads of Departments for minor works	39,000
Works in progress	11,000
Total ...	1,00,000

F. W. DUKE.

CALCUTTA,

REVISED FINANCIAL STATEMENT, BENGAL, 1911-12.

Part I.—General Review.

(1) ACCOUNTS FOR 1909-10.

WHEN the revised estimate for 1909-10 was laid before the Council on the 26th March 1910, the receipts of the year were estimated to amount to Rs. 5,77,43,000, and the charges to Rs. 5,18,49,000, while the anticipated closing balance was Rs. 87,37,000. The accounts of the year, which have now been finally closed, show that the actual receipts amounted to Rs. 5,81,81,969, and the charges to Rs. 5,48,07,904, while the closing balance was Rs. 91,17,653. The receipts were thus better by Rs. 4,38,969, this improvement having occurred chiefly under Interest (Rs. 82,808) owing to larger collections under loans in class I, Jails (Rs. 46,113), Scientific and other Minor Departments (Rs. 63,717) owing to the increased sales of quinine, and Miscellaneous (Rs. 3,49,099) mainly under unclaimed deposits.

(2) REVISED ESTIMATE FOR 1910-11.

2. The revised estimate for 1910-11, as now passed on the basis of the actuals of the first ten, and in some cases eleven, months of the current year is compared below with the sanctioned estimate for the year:—

	Sanctioned estimate.	Revised estimate.	Better (+) or worse (−).
	Rs.	Rs.	Rs.
Opening balance ...	87,37,000	91,18,000	+3,81,000
Revenue receipts ...	5,24,45,000	5,19,87,000	−4,58,000
Adjustments	33,64,000	68,87,000	+35,23,000
Total receipts ...	5,58,09,000	5,88,74,000	+30,65,000
Grand Total ...	6,45,46,000	6,79,92,000	+34,46,000
Total Expenditure ...	5,75,46,000	5,56,84,000	+18,62,000
Closing Balance ...	70,00,000	1,23,08,000	+53,08,000

3. The increase under adjustments is due to the following additional assignments from Imperial Revenues :—

	Rs.	Rs.
On account of the rent payable by the Survey and Settlement parties, Midnapore, for the temporary occupation of the new Collectorate buildings now under construction	30,000	
Grant in connection with Captain McCay's deputation to conduct an enquiry into the subject of Jail dietaries	2,000	
Contribution from Eastern Bengal and Assam towards the preparation of a standard book on silver work	2,000	
Grant for Archæological expenditure ...	4,000	
For capital expenditure on the Madaripur Bhil Route	34,000	
Towards the education of students from Eastern Bengal and Assam in the Serampur Weaving School	1,000	
Special contribution for expenditure on education	24,50,000	
Do. sanitation	10,00,000	
		35,23,000

4. The principal fluctuations under the Revenue heads are noticed briefly below. The improvements aggregated Rs. 8,64,000, chiefly under the following heads:—

Land Revenue—(Rs. 61,000) due to better collections of ordinary and miscellaneous revenue.

Excise—(Rs. 3,74,000) due to better settlements and the increased consumption of country spirits.

Provincial Rates—(Rs. 95,000) due to an increase in the collection of Public Works cess.

Forests—(Rs. 50,000) due to larger collections in Palamau, Singhbhum, Chaibasa, Sambalpur, Angul and Puri. In Singhbhum the Bengal Timber Trading Company is working on an extended scale, while in Angul and Puri operations are now being carried out by departmental agency.

Courts of Law—(Rs. 51,000) on account of special receipts under process-servers' fees in Midnapore, Khulna and Shahabad, and larger receipts from Magisterial fines.

Police—(Rs. 18,000) due to larger recoveries on account of punitive police in Khulna and Jessore.

Ports and Pilotage—(Rs. 65,000) chiefly under pilotage receipts.

Education—(Rs. 46,000) under fees from Government Colleges—General, and High Schools for boys.

Medical—(Rs. 47,000) partly due to a special receipt of Rs. 17,498 from the Port Commissioners on account of the Clayton Fumigating apparatus, and partly to larger receipts from paying patients and as fees in the Medical College.

Civil Works in charge of the Public Works Department—(Rs. 45,000) due to the inclusion of the Government share of the annual profits of the Darjeeling-Himalayan Railway for two years, no payment having been made in 1909-10.

Under the following heads, on the other hand, the revenue fell off appreciably, the total decrease being Rs. 13,22,000:—

Stamps—(Rs. 4,43,000) chiefly in respect of the sale of general stamps, the new legislation having failed to yield the enhancement anticipated.

Assessed Taxes—(Rs. 2,65,000) due to smaller collections in Calcutta, Burdwan and Manbhum owing to trade depression during 1909-10.

Registration—(Rs. 2,12,000) owing to a decrease in the number of registrations effected.

Interest—(Rs. 1,16,000) chiefly under loans to cultivators owing to a reduction in the outstanding balances of the Provincial Loan Account.

Jails—(Rs. 40,000) owing to a falling off in the sale of manufactured articles.

Miscellaneous—(Rs. 52,000) under unclaimed deposits and the sale of lands and houses. In particular, a smaller amount was realized by the sale of the Jorabagan thana than was originally estimated.

Irrigation—Major Works—(Rs. 67,000) due chiefly to a fall in the receipts from water rates on the Sone canals owing to a contraction in the area irrigated during the hot weather of 1910.

Irrigation—Minor Works and Navigation—(Rs. 1,00,000) due principally to a falling off in the Navigation receipts on the Calcutta and Eastern Canals, in consequence of the closure of the Bhangore khal and Chitpur lock.

5. On the expenditure side the revised estimate shows a total decrease of Rs. 25,97,000 which is mainly accounted for under the following heads:—

Land Revenue—(Rs. 1,26,000) partly under salaries of officers, and savings in the grant for contingencies and process-serving establishments, and partly in the expenditure upon the experimental maintenance of the record-of-rights in Orissa.

Stamps—(Rs. 36,000) chiefly under the cost of stamp paper supplied from Central Stores.

Registration—(Rs. 36,000) by savings under the provision for grain allowance and in the pay of Sub-Registrars and the rent of offices of Sub-Registrars.

General Administration—(Rs. 86,000) due to the delay in the formation of the Executive Council

Jails—(Rs. 4,13,000) due to savings in the grant for dietary charges owing to the fall in the price of food-grains, and to smaller outlay on the purchase of raw materials.

Police—(Rs. 2,49,000) owing to savings in the grant for grain allowance and contingencies.

Education—(Rs. 3,64,000) due to savings under the salaries and allowances of Inspectors, and in the Sibpur Engineering College; to smaller expenditure on the Industrial Chemistry class and the Physical and Chemical Laboratory charges, Government schools—General, and Training schools for masters.

Medical—(Rs. 1,42,000) due chiefly to savings under District Medical establishment, supplies and services of the Campbell Hospital and the expenditure on plague preventive measures.

and other Minor Departments—(Rs. 53,000) chiefly in respect of the Veterinary and Agricultural Departments, but also under Botanic Gardens and Miscellaneous. The expenditure of the Fisheries Department was also reduced.

Stationery and Printing—(Rs. 1,33,000) partly due to savings under Establishment in the Government Presses, and partly under Stationery supplied from the Central Stores.

Miscellaneous—(Rs. 1,54,000) due to the adjustment to the appropriate heads of expenditure sanctioned by His Honour out of the allotment for petty grants, and to the reappropriation of the reserve provision of Rs. 1,07,000 to meet expenditure under other heads.

Irrigation Minor Works and Navigation—(Rs. 1,72,000) chiefly on account of transfers to Major Works (working expenses).

Civil Works in charge of the Public Works Department—(Rs. 2,09,000) owing to the non-utilization of the full grant for the Press block in the new Presidency Jail and the provision for the Monghyr Central Jail.

Civil Works in charge of Civil officers—(Rs. 3,25,000) on account of transfers to other heads.

On the other hand, there was a total increase in expenditure of Rs. 7,35,000, which the most noticeable instances were as follows:—

Courts of Law—(Rs. 5,65,000) mainly under Law charges in connection with political cases.

Irrigation Major Works—(Rs. 1,41,000) due to an adjustment of the total provision for establishment under heads 42 and 43, and to expenditure upon silt clearing, the repairs of locks on the Hijili Tidal Canal, and special repairs on the Sone and Orissa Canals.

6. The net result of these changes is that the closing balance for 1910-11, including the sum of 50 lakhs held in trust for the Calcutta Improvement Scheme, which was estimated in March last at Rs. 70,00,000, is now expected to amount to Rs. 1,23,08,000.

(3) FINANCIAL SETTLEMENT.

7. The effect of the modifications which have been approved by the Government of India in the terms of the Financial Settlement with the Province, with effect from the 1st April 1911, are shown below:—

		Rs.	Rs.
(a) *Additions to growing revenues of the Province—*			
V.	Excise (receipts) ½	42,03,000	
Deduct—			
7	,, (charges) ½	2,21,000	
	Refunds and assignments ½ ...	6,000	
	Net revenue ...		40,36,000
IX.	Forests (receipts) ½	5,50,000	
Deduct—			
11	,, (charges)	3,32,000	
	Refunds	1,000	
	Net revenue ...		2,17,000
	Transfer to divided the deduction of Income-tax from salaries in the Public Works Department, ½		29,000
(b) *Net gain to the Province by the division of certain heads of revenue and expenditure previously undivided—*			
	Irrigation Department total receipts (including both Civil and Public Works Departments) ½	16,75,000	
To be deducted from—			
	Irrigation Department total charges (including both Civil and Public Works Departments) ½	28,61,000	
	Net reduction in expenditure ...		11,86,000
	(c) Total gain to Provincial revenues by the transactions under (a) and (b) ...		54,66,000

	Rs.
Deduct—	
Net reduction made in the fixed assignments ...	47,22,000
(d) Net gain to Province over the whole transaction to be given in the form of a special recurring grant	7,46,000

It is to be remembered that under the terms of the Financial Statemen receipts and charges under different heads (other than Land Revenue) ar shared in the same proportion. Therefore the Province, whon given large shares than previously under Excise and Forests, had to accept a correspond ingly larger share of the expenditure under these heads, but on the balance o the transaction it gained Rs. 42,53,000. Similarly the division of certai receipts in the Irrigation Department carried with it the correspondin division of the charges, but since the charges exceeded the receipts, the Provinc gained Rs. 11,86,000 under this arrangement, as well as Rs. 29,000 owing to th division of the deductions of income-tax from salaries in the Public Work Department. The aggregate Provincial gain was accordingly Rs. 54,68,00(and had the Government of India decided to have left to the Province n immediate profit over the modification of the settlement, a correspondin reduction would merely have been made from the fixed assignment. Whil making that deduction, however, a fixed recurring grant has been give of Rs. 7,46,000, and the net gain to the Province, therefore, is of ths amount.

(4) BUDGET ESTIMATE, 1911-12.

8. The opening balance of 1911-12 is the closing balance of 1910-11 and is therefore Rs. 1,23,08,000.

9. The estimates for the year, as approved by the Government of Indis show receipts aggregating Rs. 5,48,40,000, an expenditure of Rs. 5,85,71,00(and a closing balance of Rs. 85,77,000. Out of the special grant of 50 lakh for the Calcutta Improvement Scheme, which has appeared in the account since 1903-04, ten lakhs will be paid to the Improvement Trust when ths body is constituted during the ensuing year, and effect is given in full to th scheme of finance which has been approved by the Secretary of State.

10. The estimate of receipts includes the following assignments fro Imperial Revenues, from which Rs. 54,68,000 has been deducted, as explaine above, under the terms of the new financial settlement. The calculation nis shown below :—

	Present settlement.	New settlement.
	Rs.	Rs.
Fixed assignment under the terms of the settlement of 1906	7,39,000	
For Police reorganization	17,67,000	
For technical education	35,000	
„ European and Eurasian education ...	65,000	
„ abolition of the patwari cess in Sambalpur ...	26,000	
„ provincialization of the Dhaka Canal charges	12,000	
„ net charges of Inland Labour Transport in Bengal, payable from the provincial revenues of Eastern Bengal and Assam ...	13,000	
„ increased remuneration to the Solicitor to Government	36,000	
„ stoppage of the free supply of materials by the Central Press, Calcutta, to the Provincial Presses	2,000	
„ transfer of the control of Hastings House gardens to the Superintendent, Royal Botanic Garden	3,000	
„ remission of banking fees levied from Local Funds	70,000	
„ remission of audit fees levied from Local Funds	65,000	
„ expenditure on cemeteries	4,000	

	Present settlement.	New settlement.
	Rs.	Rs.
For transfer of a portion of the cost of the Calcutta Collectorate from Excise, the charges under which are divided equally between Imperial and Provincial, to Land Revenue, the charges under which are wholly Provincial	4,000	
„ audit of the Calcutta municipal accounts ...	11,000	
„ grant to the "Bibliotheca Indica Fund" of the Asiatic Society	3,000	
„ relieving municipalities of Police charges ...	21,000	
„ sanitary improvements	4,50,000	
„ grant to the Calcutta University and for distribution to private colleges ...	1,60,000	
	31,86,000	
Less contribution to Imperial for the pensions of Calcutta Police constables paid in the United Provinces of Agra and Oudh	21,000	
Reduction of interest on capital outlay on Irrigation—Major Works	3,45,000	
Contribution to Imperial for net receipts from the office of the Agent, Government Consignments, Calcutta, provincialized with effect from the 1st April 1909	16,000	
Recovery of contribution from Provincial, on account of the scheme of taxation under Stamps and Excise sanctioned in connection with the Imperial Budget for 1910-11	3,69,000	
	7,51,000	
Net ...		27,35,000
Add special recurring contribution ...		7,46,000
Deduct reduction made under the terms of the new settlement		54,68,000
Fixed adjusting entry under the new settlement		—19,87,000
Add special assignments from Imperial to Provincial—		
On account of the Madaripur Bhil Route (maintenance)		50,000
On account of the Madaripur Bhil Route (capital)		1,76,000
In connection with the scheme of Famine Relief		2,60,000
For continuous maintenance of the record-of-rights in Orissa		1,47,000
„ temporary occupation of 2, Bankshall Street by the Commerce and Industry Department		20,000
„ contribution from Eastern Bengal and Assam to the Belgachia Veterinary College ...		28,000
„ education of students from Eastern Bengal and Assam in the Serampur Weaving School		3,000
„ grant to the Calcutta Improvement Trust ...		1,50,000
Total addition ...		8,34,000
Contribution from Provincial to Imperial—		
On account of the transfer of the charges of the office of the Examiner of Public Works Accounts from Provincial to Imperial ...		81,000
Total net reduction ...		—12,34,000

11. On the expenditure side, the total estimated charges for 1911-12 amount to Rs. 5,85,71,000, which is in excess of the income by Rs. 37,31,000, owing mainly to the provision of Rs. 11,50,000 for payment to the Calcutta

Improvement Trust, and the expenditure of 17 lakhs on non-recurring charges of the Education and Sanitation Departments for which a special assignment was given by the Government of India in 1910-11.

12. A schedule is attached showing the new schemes, costing individually more than Rs. 5,000 in any one year, which have been included in the Budget. The non-recurring charges on account of these schemes amount to Rs. 2,79,200, and the recurring charges to Rs. 8,62,090. The Budget includes, in addition, the following new schemes of a more or less petty nature, which are individually estimated to cost Rs. 5,000 or less:—

(*a*) NON-RECURRING CHARGES.

	Rs.	Rs.
Land Revenue—		
For the storage, arrangement and preservation of records in the record-rooms of Collectors ...		5,000
Forests—		
Stipend of Mr. Downing selected for direct appointment to the Provincial Forest Service		900
General Administration—		
Temporary establishment, Legislative Department, for the revision of the Rules and Orders		1,680
Courts of Law—		
Fees to the Clerk of the Crown for attending the Special Tribunal	3,000	
Temporary Sub-Judge for 6 months for unforeseen requirements	3,600	
		6,600
Jails—		
Iron cots for the hospital of the Midnapore Central Jail		1,400
Police—		
Purchase of a new prison van for Sealdah ...	750	
Supply of beds to the Calcutta Police Hospital ...	3,600	
Purchase of 50 copies of Dr. Ryan's Application of the Law of Criminal Evidence	600	
Purchase of Mr. Swain's Manual for Constables and Mr. Knyvett's Drill Manual	850	
Purchase of the copyright of Mr. Fasson's illustrated Guide to the Police Portrait System	2,000	
		7,800
Ports and Pilotage—		
Cost of installation of electric fans in the Branch Shipping office, Kidderpore		1,300
Education—		
Purchase of Sir Herbert Risley's book "Castes and Tribes of Eastern India"	2,600	
Printing and publication of text-books in aboriginal vernaculars	1,000	
Purchase of books for the Training College for teachers	1,150	
		4,750
Medical—		
Grant for the construction of an office room for the Civil Surgeon of Bankura in the Sadar Dispensary...	675	
Grant for land acquisition in connection with the Ranchi Hospital	1,012	
Temporary Demonstrator to assist the Chemical Examiner in his teaching work at the Medical College	1,200	
		2,887
Scientific and other Minor Departments—		
Provision for dealing with insect and fungus pests ...	2,000	
Initial cost of a demonstration farm at Sambalpur ...	1,300	
Initial cost of Eri silk experiments	600	
		3,900

	Rs.	Rs.
Civil Works in charge of Civil Officers—		
Construction of a *pucca* approach road to the Ranaghat ferry and certain special repairs	4,000	
Purchase of an iron ferry boat for the Ranaghat ferry	1,600	
		5,600
Total ...		41,817

(*b*) RECURRING CHARGES.

Excise—		
Personal allowance of the Superintendent of Excise Revenue, Calcutta	000	
Employment of an additional sub-inspector for the Khondmals	600	
Local allowances to officers employed in Angul ...	500	
		1,700
Assessed Taxes—		
Employment of additional clerks in the 24-Parganas Collectorate		1,020
Forests—		
Local allowances to the rangers, foresters and clerks in the Angul Forest Division	700	
Reorganisation of the Subordinate Forest Service ...	5,000	
		5,700
Registration—		
Revision of the establishment of the Joint Sub-Registrar at Calcutta	1,050	
Additional clerks and muharrirs for the offices at Gola, Hura, Balarampur and Banki	1,500	
Office establishments at Maharajganj, Katihar and Sero	1,476	
Revision of establishment in various offices ...	4,860	
		8,886
General Administration—		
Reorganization of the record-room establishment of the Civil Secretariat	2,000	
Employment of an assistant record-keeper in the Secretariat	1,200	
Employment of an additional clerk on the establishment of the Bengal Librarian	600	
		3,800
Courts of Law—		
House allowance of the Superintendent and Remembrancer of Legal Affairs	720	
Fees to pleaders of the Presidency Magistrate's Courts for the defence of paupers in murder cases ...	2,000	
Establishment for the new Munsifi at Barh ...	1,404	
		4,124
Jails—		
Employment of an assistant jailor in the Khulna Jail...	600	
Personal allowance of the Superintendent, Juvenile Jail	2,400	
Pay of ten clerks for employment in 1st class District Jails	4,800	
Additional warders for the Alipore and Buxar Central Jails	3,860	
Additional warders for the Cuttack and Puri Jails ...	720	
Pay of an engine driver for the Jute Mills at the Alipore Central Jail	600	
Revision of the establishment of the Jail Depôt, Calcutta	3,228	
		15,708

	Rs.	Rs.
Scientific and other Minor Departments—concluded.		
Temporary establishment for Eri silk experiments ...	900	
Employment of an Agricultural inspector for Tirhut ...	1,284	
Grant to the Divisional Agricultural Association of the Tirhut Division	1,000	
Revision of establishment in the office of the Protector of Emigrants	2,081	
Employment of an additional auditor for the Co-operative Credit Societies in the Orissa Division...	1,200	22,201
Stationery and Printing—		
Maintenance charges of the electric installation in the Secretariat Press	2,000	
Additional establishment in the Darjeeling Press ...	1,980	3,980
Total ...		1,36,866

PART II.—Detailed remarks on the Budget for 1911-12.

Receipts.

13. *Land Revenue.*—The total collections in 1909-10 amounted to Rs. 3,04,85,296, and the estimate for 1911-12, as provisionally passed by the Government of India, is Rs. 3,04,13,000, in comparison with Rs. 3,04,00,000, the revised estimate for 1910-11. The estimate includes Rs. 10,97,000 for recoveries of Survey and Settlement charges, against Rs. 11,00,000 provided on the same account in the revised estimate for 1910-11.

14. The estimated Provincial share of Land Revenue is calculated as follows:—

	Estimate, 1910-11.	Revised estimate, 1910-11.	Estimate, 1911-12.
	Rs.	Rs.	Rs.
Gross Land Revenue	3,02,92,000	3,04,00,000	3,04,13,000
Deduct estimated collections from Government Estates (wholly Provincial)	34,67,000	34,26,000	35,32,000
Deduct recoveries of Survey and Settlement charges (wholly Imperial)	11,55,000	11,00,000	10,97,000
Total Deductions ...	46,22,000	45,26,000	46,29,000
Net amount divisible between Imperial and Provincial funds	2,56,70,000	2,58,74,000	2,57,84,000
Provincial share (one-half) ...	1,28,35,000	1,29,37,000	1,28,92,000
Add collections from Government Estates (wholly Provincial) ...	34,67,000	34,26,000	35,32,000
Total Provincial ...	1,63,02,000	1,63,63,000	1,64,24,000
Add adjustments as in paragraph 10	33,64,000	68,87,000	—12,34,000
Total Provincial Receipts ...	1,96,66,000	2,32,50,000	1,51,90,000

15. *Stamps.*—The Budget estimate of the total revenue from Stamps for 1910-11 was passed by the Government of India for Rs. 1,67,86,000, including Rs. 6,86,000, being the expected proceeds of the new scheme of taxation sanctioned by the Government of India in connection with the Imperial Budget for 1910-11. The actuals in 1909-10 amounted to Rs. 1,56,17,389, while those of the first eleven months of 1910-11 exceeded the figures of the corresponding

period of the preceding year by Rs. 2,20,000 only. These figur show that the increase expected by the Government of India from the ne taxation has not been realized. In view of this fact, and allowing f the adjustment of receipts from the sale of unified stamps between tl Postal and the Stamp Departments, the revised estimate for 1910-11 h been passed for Rs. 1,59,00,000. Allowing for a progressive increase of 3 lak the estimate for 1911-12 has been placed at Rs. 1,62,00,000. The Pr vincial share is one-half, and amounts to Rs. 79,50,000 for 1910-11 a Rs. 81,00,000 for 1911-12.

16. *Excise.*—The revenue from Excise for 1910-11 was estimated Rs. 1,70,52,000, and included Rs. 52,000, being the expected proceeds of the ne scheme of taxation by which the tariff rates on beer and spirits were raise The actuals in 1909-10 amounted to Rs. 1,67,92,558, while the figures for tl first eleven months of 1910-11 show an increase of Rs. 10,20,000 over the actua of the corresponding period of the preceding year. The revised estimate f 1910-11 has therefore been passed for Rs. 1,78,00,000, and allowing for progressive increase of three lakhs, the estimate for 1911-12 has been placed Rs. 1,81,00,000. The Provincial share (one-half in 1910-11) amounts Rs. 89,00,000 and (three-fourths in 1911-12) amounts to Rs. 1,35,75,000.

17. *Provincial Rates.*—The actual collections of the Public Works Cess i 1909-10 amounted to Rs. 38,05,619, while the estimate for 1910-11 w Rs. 37,90,000. The receipts in the first ten months of the current yea however, show an increase of Rs. 91,000 over those of the correspondin period of 1909-10. The revised estimate for 1910-11 has accordingly bee placed at Rs. 39,20,000, and the estimate for 1911-12 at Rs. 38,20,00 allowing for an anticipated decrease in the receipts from the cess on mine The cess on mines is assessed annually on the average net profits of the prece ing three years of which the accounts have been made up. The assessment f 1911-12, therefore, will be made upon the basis of the average profits of tl mines during the years 1908, 1909 and 1910, but since 1908 the price of co has fallen considerably and has not yet recovered. Under "General Rat for the Management of Private Estates" the estimate of receipts is Rs. 1,80,00 in comparison with Rs. 1,50,000, the revised estimate for 1910-11. The tot estimate for 1911-12 is therefore Rs. (38,20,000+1,80,000=) 40,00,000.

18. *Assessed Taxes.*—The receipts from Income-tax for 1910-11 wer estimated at Rs. 59,00,000. The actual collections of 1909-10 amounted Rs. 55,86,037, but those during the first eleven months of 1910-11 show a decrea of Rs. 1,46,000 as compared with the actuals of the corresponding period of tl preceding year, and the revised estimate for 1910-11 has therefore been place at Rs. 53,70,000. To this amount Rs. 1,30,000 has been added as tl normal anticipated increase of revenue, plus Rs. 57,000 being the estimate amount of deductions on account of Income-tax from salaries in the Publ Works Department which are at present wholly Imperial, but which will b divided with effect from 1911-12 in equal proportions between Imperial ar Provincial Revenues. The estimate for 1911-12 has accordingly bee passed for Rs. 55,57,000. The Provincial share (one-half) amounts Rs. 27,78,000.

19. *Forests.*—The total receipts under this head for 1911-12 are estimate at Rs. 12,50,000 against Rs. 12,00,000, the revised estimate for 1910-11 an Rs. 10,80,640, the actuals of 1909-10. It is expected that the Bengal Timb Trading Company will work the forests in the Singbhum Division to a greate extent than previously, and that the sale of timber and firewood in th Sunderbans Division will increase. The receipts and charges of this depar ment will be wholly Provincial with effect from the 1st April 1911.

20. *Registration.*—The receipts under this head for 1910-11 wer estimated at Rs. 14,87,000. The actuals in 1909-10 amounted to Rs. 13,52,72 while the collections in the first nine months of 1910-11 show a decrease Rs. 90,010 as compared with those of the corresponding period of the previo year. The decrease is attributed to the falling off in the number of registratio owing to the good harvests of the preceding year. The revised estima for 1910-11 has been placed at Rs. 12,75,000, and, allowing for an increase Rs. 51,000 over the revised estimate, the estimate for 1911-12 has been passe for Rs. 13,26,000. The receipts of this department are wholly Provincial.

21. *Interest.*—The estimate of loans, as submitted to the Government of India, provides for a return in the way of interest during 1911-12 of Rs. 5,85,000, as shown below —

	Rs.
Interest on advances to cultivators, etc.	1,76,000
„ „ drainage and embankment advances	25,000
„ „ loans to land-holders	1,60,000
„ „ „ to Municipalities and District Boards, etc. ...	1,85,000
Miscellaneous	39,000
Total ...	5,85,000

22. *Law and Justice—Courts of Law.*—The actuals in 1909-10 amounted to Rs. 6,00,716, while the receipts in the first nine months of 1910-11 show an increase of Rs. 58,990 over those of the corresponding period of the previous year, but these included special receipts of Rs. 18,000 on account of process-servers' fees collected in cash in the districts of Midnapore, Khulna and Shahabad, and unusually large receipts from Magisterial fines. In view of these circumstances, the revised estimate for 1910-11 has been placed at Rs. 6,75,000, and the estimate for 1911-12 at Rs. 6,15,000.

23. *Jails.*—The actuals in 1909-10 amounted to Rs. 8,59,113, while the receipts in the first nine months of 1910-11 amounted to Rs. 4,78,228, as compared with Rs. 4,83,561 in the corresponding period of the previous year. An improvement in the receipts is anticipated as the result of special efforts which are being made to push the sales of manufactured goods, while the sales of quinine, of which one-fifth is credited to the Jail Department, are also expected to increase. The revised estimate for 1910-11 has been placed at Rs. 9,24,000 and the estimate for 1911-12 at Rs. 9,14,000.

24. *Police.*—The actuals in 1909-10 amounted to Rs. 1,89,940, and the receipts in the first nine months of 1910-11 show a decrease of Rs. 4,467 as compared with those of the corresponding period of the previous year. In view of these figures the revised estimate for 1910-11 has been placed at Rs. 1,85,000, against Rs. 1,67,000 originally passed. This increase as compared with the original estimate is due to recoveries on account of punitive police in Khulna and Jessore, which are not expected to continue during 1911-12, and the estimate for that year has accordingly been passed for Rs. 1,74,000.

25. *Ports and Pilotage.*—The actuals in 1909-10 amounted to Rs. 15,22,485, while the Budget estimate for 1910-11 was Rs. 15,48,000. This has been raised to Rs. 16,13,000 in the revised estimate, with reference to the actuals of the first nine months of the current year. The estimate for 1911-12 has been passed for Rs. 15,85,000. The decrease is chiefly due to the fact that the Government of Eastern Bengal and Assam is making its own arrangements for the examination of masters, serangs, etc., and for the survey of inland steam vessels at Goalundo.

26. *Education.*—The Budget estimate for 1910-11 was Rs. 6,00,000. This has been raised to Rs. 6,46,000 in the revised estimate, with reference to the actuals of the first nine months of the current year, the improvement having mainly occurred under fees from Government Colleges—General, and from High Schools for boys (including collegiate schools). The estimate for 1911-12 is Rs. 6,50,000.

27. *Medical.*—The estimate for 1910-11 was Rs. 2,98,000 against Rs. 2,90,056, the actuals of 1909-10. The receipts during the first nine months of 1910-11 show an increase of Rs. 28,148 over those of the corresponding period of the previous year, this result being partly due to larger receipts from paying patients, and partly under Miscellaneous, since Rs. 17,498 were received on account of charges for the Clayton fumigating apparatus from the Port Commissioners. The revised estimate for 1910-11 has accordingly been placed at Rs. 3,45,000, and the estimate for 1911-12 at Rs. 3,29,000.

28. *Scientific and other Minor Departments.*—The estimate under this head for 1911-12 is Rs. 3,70,000, which is also the revised estimate for 1910-11, as compared with Rs. 3,46,717, the actuals of 1909-10. The increase is chiefly under the receipts from the experimental farms of the Agricultural Department.

29. *Receipts in aid of Superannuation.*—As in the revised estimate for 1910-11, the total receipts for 1911-12 are estimated at Rs. 64,000, as compared with Rs. 66,558, the actuals of 1909-10.

30. *Stationery and Printing.*—The estimate under this head for 1911-12 is Rs. 1,42,000 in comparison with Rs. 1,41,000, the revised estimate for 1910-11, and Rs. 1,38,569, the actuals of 1909-10.

31. *Miscellaneous.*—The receipts for 1910-11 were estimated to amount to Rs. 7,42,000, which included Rs. 1,40,000 being part of the sale proceeds of the Jorabagan Thana, and Rs. 40,000 being the sale proceeds of the Garden Reach Thana. The Jorabagan Thana buildings were eventually sold for Rs. 1,83,000, of which Rs. 91,501 were paid in 1909-10, and the balance, Rs. 91,499, in 1910-11. It is not expected that the Garden Reach Thana building will be sold during the current year. The buildings and machinery, etc., now in Fraserganj have been sold for Rs. 60,830, which has been included in the revised estimate for 1910-11. In view of these figures and the actuals of the first nine months of 1910-11, the revised estimate for the year has been placed at Rs. 6,90,000. The estimate for 1911-12 is passed for Rs. 6,82,000, which includes a larger provision for lapsed unclaimed deposits and for the sale proceeds of elephants captured in the Khedda operations in Angul.

32. *Irrigation—Major Works (Direct Receipts).*—The Budget estimate for 1910-11 was Rs. 25,92,000, which has been reduced to Rs. 25,25,000 in the revised estimate, as compared with Rs 27,02,520, the actuals of 1909-10, owing to a decrease in the area irrigated in the Sone Canals and a consequent decrease of Rs. 1,97,464 in the collections of the first eight months. The estimate for 1911-12 has been passed for Rs. 25,50,000, which for the first time includes receipts from the Triboni Canal. The Provincial share (one-half in 1911-12) is Rs. 12,75,000.

33. *Irrigation—Minor Works and Navigation in charge of the Public Works Department.*—The Budget estimate for 1910-11 was Rs. 6,50,000; but in view of the collections during the first eight months of 1910-11, amounting to Rs. 3,46,021, as compared with Rs. 3,49,426 in the corresponding period of the previous year, the revised estimate has been reduced to Rs. 5,50,000, against Rs. 5,63,620, the actuals of 1909-10. The decrease is chiefly under Navigation receipts from the Calcutta and Eastern Canals in consequence of the closure of the Bhangor khal and Chitpur lock. The estimate for 1911-12 amounts to Rs. 6,00,000, since an increase is expected in the Navigation receipts from the Calcutta and Eastern Canals. The Provincial share (one-half in 1911-12) is Rs. 3,00,000.

34. *Civil Works in charge of the Public Works Department.*—The Budget estimate for 1910-11 was Rs. 3,55,000, against Rs. 2,55,110, the actuals of 1909-10. The Government share of the profits from the Darjeeling-Himalayan Railway and the second instalment of rent from the Strand Banks, realizable from the Port Commissioners, were not credited to Government in 1909-10, and it is expected that they will be received during 1910-11, the revised estimate for which has accordingly been raised to Rs. 4,00,000. The estimate for 1911-12 is Rs. 7,14,000, and includes Rs. 3,63,742 on account of the first instalment of the sale proceeds of the land and buildings of the Sibpur Engineering College, which is to be sold to the Port Commissioners for Rs. 13,63,742, payable on the 1st March 1912, *plus* two instalments of Rs. 5,00,000, each, recoverable on the 1st March 1913 and the 1st March 1914, respectively.

EXPENDITURE.

35. *Refunds and Drawbacks.*—The expenditure in 1911-12 is estimated at Rs. 1,46,000 against Rs. 1,35,000, the Budget estimate for 1910-11, and Rs. 1,43,505, the actuals of 1909-10. The estimates under this head are based, as usual, on the average actuals of the previous three years, excluding special payments. The increase in 1911-12 is due to the increase in the Provincial share under the head of Excise from $\frac{1}{2}$ to $\frac{3}{4}$, and that under the head of Forests from $\frac{1}{2}$ to one. The revised estimate for 1910-11 has been raised from Rs. 1,35,000 to Rs. 1,50,000 with reference to the actuals of the 12 months ending the 31st December 1910.

36. *Assignments and Compensations.*—The estimate for 1910-11 was Rs. 70,000. The revised estimate has, however, been placed at Rs. 69,000

against Rs. 65,362, the actuals of 1909-10; the estimate for 1911-12 is Rs. 67,000.

37. *Land Revenue.*—The total Provincial expenditure for 1911-12 is estimated at Rs. 40,70,000, against Rs. 38,60,000, the revised, and Rs. 39,86,000, the budget estimate, for 1910-11, as shown below:—

	1910-11.		1911-12.
	Budget.	Revised.	Budget.
	Rs.	Rs.	Rs.
(1) Charges of District Administration	29,77,000	28,00,000	30,10,000
(2) Charges on account of Land Revenue collections ...	4,000	3,000	4,000
(3) Management of Government estates	4,29,000	4,27,000	4,50,000
(4) Survey and Settlement ...	1,60,000	1,75,000	1,69,000
(5) Land Records	4,86,000	4,55,000	4,87,000
	40,56,000		41,20,000
Lump reduction ...	70,000		50,000
Total ...	39,86,000	38,60,000	40,70,000

The estimate under head (1) provides for the full *cadre* of establishment, and for travelling allowance, supplies and services and contingencies of Collectors' and Magistrates' offices, two-fifths of which has been transferred to 19A—Law and Justice—Criminal Courts. It includes a lump provision of Rs. 1,35,000, for the increase of the pay of ministerial officers, including arrears for 1909-10 and 1910-11, and Rs. 61,850 for additional Deputy Magistrates and Sub-Deputy Collectors, as shown below, in order to meet the demands of the Settlement Department:—

	Rs.
Deputy Collectors, including Probationers	24,850
Sub-Deputy Collectors ditto	37,000
Total ...	61,850

Under head (3) a special provision of Rs. 40,000 has been made, as in 1910-11, in order that certain urgent works of improvement may be executed in Government estates which cannot be financed from the improvement grant as ordinarily calculated. Rupees 5,000 has also been provided on account of the payment of Public Works Cess and Road Cess in Government estates, since the primary liability rests with Government, and full recoveries from its raiyats are improbable. Provisions of Rs. 17,000 and Rs. 850 have also been made for the management and improvement of the Hiranpur and Sahibgunj markets respectively. Under head (5) Rs. 3,27,000 has been provided for the initial expenditure in bringing the survey and settlement records in Orissa up to date, and Rs. 59,000 for the experimental maintenance of the record-of-rights in Orissa.

38. *Stamps.*—The estimate for 1910-11 was Rs. 5,01,000, which has been reduced in the revised estimate to Rs. 4,32,000. The Budget for 1911-12 is Rs. 4,58,000, as against Rs. 4,31,964, the actuals in 1909-10, and allows for increased charges for the sale of stamps of different natures.

39. *Excise.*—The estimate for 1911-12 is Rs. 9,50,000, as compared with Rs. 9,00,000, the revised estimate for 1910-11. The increase is due to (*a*) a special provision of Rs. 50,000 towards the reorganization of the Excise Department with which it is contemplated to amalgamate the Salt Department, (*b*) an additional grant for rewards (secret service) which has placed at the disposal of the Excise Commissioner, and (*c*) an additional grant under travelling allowance, as the result of the increase in establishment. The Provincial share (three-fourths in 1911-12) is Rs. 7,13,000.

40. *Provincial Rates.*—The estimate for 1911-12 is Rs. 70,000 against Rs. 64,000, the Budget estimate for 1910-11, and Rs. 42,379, the actuals of 1909-10. The increase is mainly due to the valuation and revaluation charges

in the districts of Midnapore, 24-Parganas, Nadia, Jessore, South Monghyr Purnea, Ranchi and Hazaribagh.

41. *Assessed Taxes.*—The Budget grant for 1911-12 is Rs. 1,63,000 again Rs. 1,56,000, the revised estimate for 1910-11, and Rs. 1,55,715, the actuals 1909-10. The Budget for 1911-12 includes a lump provision of Rs. 5,302 c account of the reorganization of the office establishment of the Collector Income-tax, Calcutta. The Provincial share (one-half) is Rs. 81,000.

42. *Forests.*—The total expenditure for 1911-12 is estimated Rs. 7,34,000, against Rs. 6,65,000, the sanctioned grant for 1910-11, an Rs. 5,91,099, the actuals of 1909-10. The Budget includes the followin items :—

	Rs.
Construction of two new cutters and ranger boats for the Sundarbans Forest Division	34,500
Establishment, etc., for ditto ditto ...	2,720
Departmental working of timber operations in Angul ...	6,000
Reorganization of the establishment in Forest offices ...	5,128
Initial cost of the Agency Forest Officer in the Orissa Feudatory States—Buildings	9,000
Salary, establishment and travelling allowances of ditto ...	9,960
Introduction of the time-scale of pay for the Provincial Forest Service	19,908
Payment to the Raja of Porahat of the net profits from the Porahat forests which are under the management of the Forest Department	25,000
Reorganization of the Subordinate Forest Service	5,000

The charges of this Department will be wholly Provincial with effec from 1911-12.

43. *Registration.*—The estimate for 1911-12 is Rs. 7,94,000, again Rs. 7,77,000, the revised estimate for 1910-11, and Rs. 7,78,634, the actuals c 1909-10. The Budget includes (*a*) Rs. 6,000 for the revision of the office of th Inspector-General, (*b*) Rs. 1,050 for the revision of the office of the Joir Sub-Registrar at Calcutta, and (*c*) larger provision for the allotments made t Sub-Registrars for contingencies, etc.

44. *General Administration.*—The estimate for 1911-12 amounts t Rs. 24,24,000 and includes the following items :—

	Rs.
Delhi Coronation Durbar	3,00,000
Additional grant on account of the travelling allowance of non-official Members of Council	19,000
Additional establishment in the Secretariat record-room ...	3,200
Temporary establishment in the Secretariat record-room ...	23,000
Salary of the Personal Assistant to the Judicial Secretary to Government	7,800
Salaries, establishment, allowances and contingencies of the Members of the Executive Council	2,00,000
Salary of the Lady Adviser to the Court of Wards, together with her establishment, contingencies, etc. (shown under Courts of Law in 1910-11)	16,000

The estimate for 1910-11 was Rs. 21,02,000, but the revised estimate wa reduced to Rs. 20,16,000 owing to the delay in the formation of the Executiv Council, which was not constituted until the 19th November 1910.

45. *Law and Justice—Courts of Law.*—The Budget estimate for 1910-1 was Rs. 82,43,000, but the revised estimate has been raised to Rs. 88,08,00 with reference to the actual charges of the first ten months of the yea which were enhanced by the expenditure on law charges and fees to Counsel i connection with the trial of political cases. The estimate for 1911-12 i Rs. 87,34,000. It includes provision for (*a*) the reorganization of th ministerial establishment on the Original Side of the High Court, Rs. 23,797 (*b*) payment of fees to the Clerk of the Crown for attendance at the Specia Tribunal, Rs. 3,000 ; (*c*) increase in the retaining fees of Governmen Pleaders and Public Prosecutors, Rs. 50,000; (*d*) larger grant for fees to pleader and Counsel in criminal cases ; (*e*) the permanent appointment of the Fift Presidency Magistrate, Calcutta, Rs. 7,200; and (*f*) an additional grant unde the charges for *mufassal* witnesses attending the High Court, Rs. 4,000.

46. *Jails.*—The estimate for 1910-11 is Rs. 28,71,000. The actuals in 1909-10 amounted to Rs. 25,29,720, while the actuals of the first nine months of 1910-11 show a decrease of Rs. 70,293 as compared with the figures of the corresponding period of the previous year, chiefly on account of the fall in the price of food-grains, smaller purchases of clothing and bedding and the non-payment of grain compensation allowance. The estimate for 1911-12 is Rs. 27,09,000, which includes provision for additional warder establishments; for the revision of the office of the Inspector General of Prisons; for the establishment and other charges of the new Central Jail at Kalighat; for new lights in the new Presidency Jail at Kalighat, and Rs. 9,000 for a new mill engine at Buxar.

47. *Police.*—The following table compares the figures under this head:—

Heads.	Actuals, 1909-10.	1910-11.		Estimate, 1911-12.
		Budget.	Revised.	
	Rs.	Rs.	Rs.	Rs.
(1) Presidency Police ...	12,49,530	13,22,000	12,70,000	14,53,000
(2) Superintendence ...	2,44,469	2,26,000	2,29,000	2,21,000
(3) Criminal Investigation Department.	2,72,192	3,19,000	3,61,000	3,68,000
(4) District Executive Force ...	60,17,903	62,22,000	59,97,000	61,71,000
(5) Village Police	45,820	45,000	46,000	43,000
(6) Special ,, ...	68,019	70,000	69,000	69,000
(7) Railway ,, ...	2,54,858	2,68,000	2,50,000	2,68,000
(8) Cattle-pounds	2,323	1,200	1,000	1,700
(9) Refunds	2,650	1,800	3,000	2,300
Total ...	81,57,764	84,75,000	82,26,000	85,97,000

In view of the actuals of the first nine months of 1910-11 under the head "District Executive Force," the revised estimate has been placed at Rs. 82,26,000. The estimate for 1911-12 has been passed for Rs. 85,97,000, which includes the following items:—

	Rs.	Rs.
Creation of two appointments of Deputy Commissioners in the Calcutta Police		16,650
Reorganization of the Special Branch—		
Pay of Deputy Commissioner	10,125	
House allowance	2,400	
Establishment	20,481	
		33,006
Strengthening of the Police arrangements at the High Court—		
Superintendent	5,400	
House-rent	1,920	
Sergeants	14,400	
Clothing	1,200	
		22,920
Appointment of clerks in the offices of the Deputy Commissioners of Police, Calcutta—		
Presidency Police	6,720	
River Police	840	
		7,560
Lump provision for additional Military Police in the neighbourhood of Calcutta		50,000
Hire of quarters for the married European Sergeants of the Calcutta Police		10,800
Supply of beds to the Calcutta Police Hospital		3,600
Lump provision for the improvement of the prospects of ministerial officers in the offices of the Inspector-General and Deputy Inspectors-General		20,000
Appointment of three Assistant Superintendents for four months from November 1911		3,600
Grade promotion of sub inspectors from April 1911 ...		69,620
Grant of one rupee increment to 3,420 constables for 11 months from April 1911		37,620
Increase in order to complete the *cadre* of the ordinary police of the Burdwan and Presidency Divisions		50,000

	Rs.
Revision of boat establishments	12,000
The completion of the *cadre* of the East Indian Railway Police (Government share $\frac{4}{5}$ of Rs. 11,295)...	3,388
Establishment for the Criminal Intelligence Bureau of the Criminal Investigation Department	4,180
Local allowances for the officers of the Finger Print Bureau ...	3,850
Additional police force for the new Alipore Central Jail, for the new Dhulian, Madhupur and Muzaffarpur Municipalities, the Jalapahar and Lebong Cantonments, the Victoria and Dow Hill Girls' School, Kurseong, etc.	12,678

48. *Ports and Pilotage.*—The estimate for 1910-11 was Rs. 12,98,(but in the revised estimate this has been reduced to Rs. 12,65,000 chi owing to the discontinuance of the subsidies to steam boat companies. estimate for 1911-12 amounts to Rs. 11,89,000, and includes smaller provi for the purchase of marine stores, and for coal, repairs and outfit of sh also under Marine establishment, since it is expected that the working of office of the Agent for Government Consignments will yield a larger net pr

49. *Education.*—The total Provincial expenditure in 1910-11 was origin estimated at Rs. 59,17,000, but in the revised estimate this has been redu to Rs. 55,53,000 with reference to the actual charges in the first nine mor of the current year. The decrease is distributed (*a*) under Inspection, due savings under the salaries and allowances of inspectors and sub-inspectors, ((*b*) under Government Colleges—Professional, on account of savings ur salaries in connection with the classes in Industrial Chemistry and Physical and Chemical Laboratories of the Sibpur Civil Engineering Coll (*c*) under Government schools—General, due to savings under sala in high schools and the non-utilization of the full provision subsidies to model primary schools for girls; (*d*) under Governn schools—Special, due to savings under Training schools for masters and females at Calcutta, construction of guru training school buildings, allowar for school-masters' wives, female teachers' house-to-house visitation, mis laneous schools, agricultural classes and gardens, technical, industrial commercial schools; and (*f*) under Scholarships by reason of savings in scho ships in Arts Colleges and secondary schools. The following table sh the Educational charges since 1906-07 :—

Heads	Accounts.				1910-11.		1911
	1906-07.	1907-08.	1908-09.	1909-10.	Budget.	Revised.	Budg
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	R
Direction ...	1,21	1,23	1,14	1,15	1,17	1,19	1,1
University ...	81	93	98	1,03	84	96	5
Inspection ...	4,65	6,27	7,70	7,83	8,33	7,71	8,6
Government Colleges, General ...	5,89	6,35	6,33	5,53	6,39	6,30	7,0
Government Colleges, Professional ...	2,78	3,36	*3,90	3,96	3,84	3,45	3,6
Government Schools, General ...	5,93	6,01	12,25*	12,86*	13,41*	12,50*	13,1
Government Schools, Special ...	3,97	5,47	8,93	9,03	10,05	8,55	8,2
Grants-in-aid ...	10,61	13,33	11,18	11,32	11,80	11,70	12,5
Scholarships ...	1,55	1,71	1,86	1,87	2,00	1,81	2,0
Miscellaneous ...	1,07	83	99	1,06	1,31	1,31	1,2
Lump provision for non-recurring expenditure ...	...	...	...	...	...	...	12,0
Refunds	4	3	3	5	3	5	4
Total ...	38,51	45,52	55,29	55,69	59,17	55,53	70,2

* Includes contributions to District Funds in order to establish equilibrium, previously shown under ...

The Budget for 1911-12 includes the following items:—

	Rs.
For regrading the pay of sub-inspectors	68,960
Strengthening the staff of Professors in Government Colleges ...	60,000
Improvement of the teaching staff at the Presidency College ...	5,400
Improvement of the staff of the Ravenshaw College, Cuttack ...	6,300
Ditto ditto the Sanskrit College	7,800
Cost of maintenance of the new hostel for Muhammadan students in Calcutta	6,658
Mining instruction in the colliery districts	8,736
Improvement of the Hooghly Madrasa...	6,300
New scale of allowances for the Superintendents and Assistant Superintendents of hostels and messes attached to Government Colleges	17,800
Preparation of the artisan edition of the pattern book ...	4,000
Establishment of a modelling studio in connection with the School of Art	4,402
Purchase of copies of Sir. Herbert Risley's work on Castes and Tribes of Eastern India	2,000

The lump provision of twelve lakhs for non recurring expenditure will distributed on receipt of detailed orders from the Government of India.

50. *Medical.*—The estimate for 1910-11 was Rs. 25,16,000, but this has been reduced to Rs. 23,74,000 in the revised estimate with reference to the actuals of the first nine months of the year. The saving occurred chiefly under the salaries of medical establishment, by reason of the non-utilization of the lump provision for the improvement of the pay and prospects of Assistant Surgeons and changes in the personnel, while economies were also effected under Reserve medical officers and in the grant for Supplies and Services of the Campbell Hospital, Medical College and medical schools, and under salaries in the Medical College. The estimate for 1911-12 has been passed for Rs. 25,13,000, which includes (*i*) the full sanctioned scale of pay of medical officers, (*ii*) a lump provision of Rs. 41,000 for the improvement of the pay and position of Assistant Surgeons, (*iii*) Rs. 5,000 for commission to clerks in the offices of Civil Surgeons for the sale of quinine packets, (*iv*) increased provision for the maintenance of the electric plant in the Medical College Hospital, (*v*) a larger grant for the diet of patients in the General Hospital, (*vi*) a lump provision of Rs. 14,400 for officers employed in connection with malarial work, (*vii*) larger grants for the travelling allowances of the Vaccination inspecting staff and for anti-malarial measures and for chemicals, (*viii*) contingencies for the laboratory which has been opened for the examination of samples of water in Bengal (*ix*) the special allowances to Assistant Chemical Examiners and to the Assistant teacher of Chemistry at the Medical College and (*x*) Rs. 12,500 as a grant to the Lowis Jubilee Sanitarium in Darjeeling.

The grants for the Presidency Hospitals are shown below:—

	Salaries.	Establishment.	Allowances.	Clothing and bedding.	Diet.	Other supplies.	Contingencies.	Total.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Medical College Hospital	49,350	22,844	400	10,000	70,000	1,02,960	95,046	3,50,000
General Hospital ...	65,333	13,276	1,260	7,000	72,000	35,600	59,531	2,54,000
Campbell Hospital ...	10,140	23,840	6,160	43,000		12,950	25,910	1,23,000
Albert Victor Asylum for Lepers.	4,980	5,448	...	1,500	16,000	900	6,172	35,000

51. *Political.*—The estimate for 1910-11 was Rs. 59,000, but in the revised this has been raised to Rs. 63,000 owing to larger expenditure under Durbar presents. The Budget grant for 1911-12 is Rs. 04,000, which includes a provision of Rs. 3,000 for the purchase of an elephant for the Political Agent, Orissa Feudatory States, and for the repair of elephants' sheds, and also a larger provision for Durbar presents in view of the Coronation.

52. *Scientific and other Minor Departments.*—The estimate for 1911-12 is Rs. 14,69,000 in comparison with Rs. 14,32,000, the Budget grant for 1910-11. Provision has been made in the Budget for the following charges:—

	Rs.
Reorganization of the Veterinary Service	20,370
Employment of additional professors, etc., in the Agricultural College, Sabour	16,860
Buildings and fittings at the Agricultural College ...	20,000
Temporary establishment at the cinchona plantation, for replanting operations at Mungpoo and for the extension of the new divisions of Kashyan and Burmiak in Munsong	14,000
Purchase of a new launch for the Inspector of Factories and its maintenance	10,256

53. *Superannuation.*—The estimate for 1911-12 is Rs. 28,53,000 as compared with Rs. 27,86,000, the revised estimate for 1910-11, and Rs. 27,12,983, the actuals of 1909-10.

54. *Stationery and Printing.*—The estimate for 1911-12 is Rs. 13,39,000 against Rs. 14,16,000 and Rs. 12,83,000, the Budget and revised estimates for 1910-11, respectively, and Rs. 13,17,476, the actuals of 1909-10. The following table compares the figures:—

HEADS.	Actuals, 1909-10.	Budget estimate, 1910-11.	Revised estimate, 1910-11.	Budget estimate, 1911-12.
	Rs.	Rs.	Rs.	Rs.
Stationery Office at the Presidency ...	55,535	59,000	53,000	55,000
Stationery purchased in this country ...	33,181	34,000	34,000	33,500
Government presses	5,86,547	6,47,500	5,49,500	6,18,000
Printing at private presses	17,234	21,000	21,000	21,000
Stationery supplied from Central Stores ...	6,24,354	6,54,000	6,25,000	6,11,000
Refunds	625	500	500	500
Total ...	13,17,476	14,16,000	12,83,000	13,39,000

The details of the expenditure in Government Presses are as follows:—

	1910-11.		1911-12.
	Sanctioned estimate.	Revised estimate.	Budget estimate.
	Rs.	Rs.	Rs.
Bengal Secretariat Press ...	4,81,624	3,88,500	4,36,000
Darjeeling Branch Press ...	23,000	22,500	25,000
Private Secretary's Press ...	8,376	8,000	8,000
Presidency Jail Press ...	1,12,000	1,07,500	1,26,500
Government publications ...	22,500	23,000	22,500
Total ...	6,47,500	5,49,500	6,18,000

The decrease in the revised estimate for 1910-11 is chiefly due to savings under Establishment in the Secretariat Press. The estimate of the Presidency Jail Press for 1911-12 includes Rs. 9,664 for the reorganization of the establishment on the lines adopted in the Secretariat Press.

55. *Miscellaneous.*—The Budget estimate for 1910-11 was Rs. 4,98,000, but in the revised estimate this has been reduced to Rs. 3,44,000 owing to the adjustment under appropriate heads of the expenditure sanctioned by His Honour from the provision for petty grants, and to the reappropriation of the reserve provision of Rs. 1,07,000 in order to meet expenditure under other heads. The Budget for 1911-12 amounts to Rs. 6,03,000 and, as in

1910-11, includes a special provision of one lakh to be placed at the disposal of His Honour for petty grants and one lakh as a general reserve for unforeseen requirements. Provisions of Rs. 62,500 have been made on account of the subscription payable to a new vernacular paper, of Rs. 75,000, in place of Rs. 53,000, on account of the annual grant to the Calcutta Hospital Nurses' Institution, and of Rs. 5,500 as a grant to the Bengal branch of the Lady Minto Indian Nursing Association.

56. *Irrigation—Major Works (Working Expenses).*—The actual charges in 1909-10 were Rs. 14,62,472. The Budget for 1910-11 was Rs. 13,50,000, but in the revised estimate this has been raised to Rs. 14,91,000. The increase is due to an adjustment of establishment charges, and to expenditure on silt-clearing and repairs to locks on the Hijili Tidal Canal and special repairs on the Sone and Orissa Canals. The estimate for 1911-12 is Rs. 14,50,000. It includes a new charge of Rs. 13,000 for the Tribeni Canal, which will be entered under this head for the first time with effect from the 1st April 1911. The Provincial share, which is one-half with effect from the 1st April 1911, is Rs. 7,25,000.

57. *Irrigation—Minor Works and Navigation.*—The Budget estimate for 1910-11 was Rs. 22,72,000, but in the revised this has been reduced to Rs. 21,00,000, chiefly on account of transfers from this head to 42—Irrigation—Major Works. The estimate for 1911-12 is Rs. 21,62,000, and includes the following items :—

	Rs.
Construction of sluices and escapes in embankments in Orissa ...	33,000
Construction of bungalows at Diamond Harbour, etc., in the Northern Drainage and Embankment Division ...	20,000
Madaripur Bhil scheme	3,25,000
Extension and construction of distributaries on the Orissa canals	50,000
Dispensaries and quarters for the revenue establishment on the Sone canals	40,000
Completion of the lock at Utterbagh in connection with the Magra Hát drainage scheme	50,000
Training works in the river Ganges	40,000
Completion of special repairs to the embankments in Midnapore	75,000
Improvement of the Ballighya drain	24,500
Clearance of the outfall channels of the Khas Tahsil khals in Midnapore	25,000
Ditto ditto for maintenance	21,000
Government share of the contribution for the improvement of the Kausiki channel	16,500
Bagjola drainage scheme	22,000

The Provincial share, which is one-half with effect from the 1st April 1911, is Rs. 10,81,000.

58. *Civil Works.*—The estimate of expenditure for 1911-12 has been placed at Rs. 50,93,000 against Rs. 50,50,000, the revised estimate for 1910-11, and Rs. 49,51,064, the actuals of 1909-10. The following figures show the distribution of the allotment as compared with the two preceding years :—

	Actuals, 1909-10.	Revised estimate, 1910-11.	Estimate, 1911-12.
	Rs.	Rs.	Rs.
Original Works ...	22,29,166	22,10,494	23,18,300
Repairs	16,10,469	16,89,577	17,25,000
Establishment ...	10,64,471	11,01,196	9,89,700
Tools and Plant ...	29,146	48,733	60,000
Stock and Suspense ...	17,812	.....	.....
Total ...	49,51,064	50,50,000	50,93,000

The decrease under establishment in due to the transfer of the charges of the office of the Examiner of Public Works Accounts from Provincial to Imperial. The statement below shows the actual expenditure during 1909-10, and the estimated expenditure during 1910-11, on the principal original works in progress during those two years, as also the estimated expenditure upon

the new works or continuation of works in progress, the undertaking of which is in contemplation during 1911-12 :—

	1909-10. Rs.	1910-11. Rs.	1911-12. Rs.
Registration Department—			
New office, Khulna	.....	.....	35,000
Judicial Department—			
Additional accommodation for the Civil Courts, Jessore	45,546	.....	.....
New Civil Court buildings, Arrah ...	85,401	.....	.....
Extension of the Civil Court, Khulna	.....	3,000	50,000
Civil Court buildings and record-room, Darbhanga	53,914	.....	.....
New Civil Court buildings, Cuttack ...	.....	30,000	50,000
New record-room for the District Judge, Purnea	.....	7,000	11,000
Munsifi at Kendrapara	.....	.....	22,200
Construction of quarters for Munsifs	.....	.....	26,000
Revenue Department—			
Deputy Commissioner's Court, Halursingha (Angul)	16,827	10,490	16,000
Deputy Commissioner's residence, Sambalpur	10,585	21,000	2,000
Collectorate buildings at Midnapore ..	.....	20,000	75,000
Additions and alterations to the Subdivisional Court buildings at Aurangabad	.....	6,000	1,900
Construction of quarters for the Sub-Deputy Collector at Asansol ...	.....	.....	6,700
Jails—			
New Presidency Jail, including staff quarters	1,46,183	88,000	29,700
New Central Jail at Monghyr ...	.....	.....	3,70,000
Extension of the Khulna Jail ...	40,757	49,300	4,000
Improvements in the Central Jail, Midnapore	22,043	.....	.....
Construction of a Subsidiary Jail, Banki	.....	7,600	2,200
Improvements to the Sub-Jail, Banka	.....	3,000	5,200
Quarters for European warders at the old Alipore Jail	.....	.....	15,000
Jail Hospital, Krishnagore ...	.....	16,000	10,100
Improvements to the Magura Sub-Jail	.....	3,000	8,800
Reconstruction of barracks, Chapra Jail	.....	.....	47,800
Reconstruction of walls in the Bankipore Jail	.....	.....	13,000
Calcutta Police—			
Additions and alterations to the Duff College in order to convert it into a police-station	45,610	88,200	.....
Garden Reach Thana	.....	68,000	.....
Barrack for the Government House and Imperial Secretariat Police Guards	.....	39,500	.....
Lines for the new company of Military Police to be stationed in the neighbourhood of Calcutta ...	.....	.....	1,50,000
Mufassal Police—			
New Police lines, Nathnagore ...	.....	.....	50,000
Barracks for the Reserve Police, Midnapore	.....	.....	22,000
Police Barrack, Chandernagore ...	.....	18,000	.....
Bamangachi-Howrah Police outpost ...	.....	11,000	.....
Alterations to the Sadar thana, Purnea	.....	.....	8,000
Hooghly-Shahganj Police outpost ...	.....	13,696	.....
Barrack and cookshed for the Armed Reserve, Sambalpur	.....	.....	6,400
New thana at Howrah	.....	.....	50,000

	1909-10. Rs.	1910-11. Rs.	1911-12. Rs.
Quarters for the inspector and extension of the Reserve lines, Nadia ...	.....	8,677	3,700
Barrack and cookshed for 14 constables attached to the Sadar Thana in the Khulna district	.....	4,000	2,000
Quarters for Police at Barasat ...	.....	.....	12,000
Education Department—			
Land acquisition for, and the construction of, laboratories, &c., at the Presidency College	59,334	1,50,000	.....
Ranchi Zilla School	.....	12,000	9,700
Construction of the Civil Engineering College at Ranchi	.....	.....	1,00,000
New Zilla School building, Chaibassa	24,835	.....	.....
New hostel building for the Calcutta Madrasa	29,591	.....	.....
Additions and alterations to the Reformatory School, Hazaribagh ...	.....	8,670	17,300
Purulia High School	.....	14,000	2,200
Construction of new hall and class rooms at the Darjeeling Zilla School	.....	13,000	7,800
Erection of a Mansfield gas apparatus for the Chemical Laboratory of the Bihar School of Engineering ...	936	.....	6,000
Medical Department—			
Electrical Installations Ezra, Eden and Eye Hospitals	.....	7,120	3,000
New Surgical Block at the Medical College Hospital	2,16,583	.....	.....
Fourth Block, Medical College ...	13,700	1,40,000	38,500
Wards for insane lepers, Albert Victor Asylum, Gobra ...	.....	11,000	.....
Nurses' quarters in the Campbell Hospital	28,429	.....	.....
Quarters for the Civil Surgeon, Darbhanga	.....	6,000	1,000
Small-pox wards in the Campbell Hospital	49,239	.....	.....
Police Hospital at Barrackpore ...	.....	.....	9,900
Residence for the Civil Surgeon, Purulia	.....	.....	23,900
Erection of hydrants and fencing in the Medical College compound ...	.....	.....	5,300
Hostel for the female students of the Temple Medical School, Patna	.....	.....	15,200
Clearing and fencing the land acquired for the frontage of the Temple Medical School, Patna	.....	6,300	1,000
Construction of a dispensary at Rajmahal	913	4,687*	4,700
Contribution towards the construction of quarters for the Medical Officer at the Fraser Hospital, Burdwan ...	.....	.....	5,000
Miscellaneous—			
Press Block in the new Presidency Jail	.....	1,00,000	3,00,000
New Circuit House at Arrah ...	8,567	6,000	12,400
Agricultural College, Sabour, and quarters for the Principal and Professors, including furniture and fittings	2,47,377	88,230	.....
Public Works Department—			
Quarters for the subdivisional officer at Pusa	.....	.....	10,700
Quarters for the subdivisional officer, Khulna	.....	.....	7,400
Quarters for the Executive Engineer, Ranchi	.....	10,000*	12,000

* Inclusive of contribution of Rs. 4,000

	1909-10. Rs.	1910-11. Rs.	1911-12. Rs.
Communications—			
New High Level Tista Valley Road, Section I	6,556	.....	.....
Causeway on the 25th mile of the Grand Trunk Road	.....	6,000	8,500
Metalling 13¼ miles of the Calcutta-Jessore Road	7,820	9,200	10,000
Construction of the Cuttack-Sambalpur Roads	9,525	25,000	26,000
Construction of the Sambalpur-Sonepore Road ...	4,509	1,000	3,700
Construction of the Hum Road in Darjeeling	.....	1,05,000	23,300
Miscellaneous Public Improvements—			
Renewal of the Nepal boundary embankment in Araria subdivision, Purnea	.....	.....	12,000

59. *Civil Works in charge of the Civil Department.*—The estimate for 1911-12 is Rs. 34,69,000, and includes a provision of Rs. 11,50,000 for payment to the Calcutta Improvement Trust, and a provision of Rs. 11,31,000 for grants to District Funds and District Road Funds, of which the sum of Rs. 60,000 is for feeder roads, and Rs. 9,25,000 for grants to District Boards in augmentation of their resources. Rupees 11,46,000 have also been provided for grants to municipalities and other Local Funds, of which the principal items are—

	Budget, 1911-12. Rs.
Grant-in-aid to the Calcutta Municipality towards the cost of the drainage of the Fringe Area	50,000
Grants placed at the disposal of Divisional Commissioners for petty local works of improvement	1,00,000
Lump provision for grants for works of sanitary improvement, etc.	9,50,000

The following expenditure was incurred from the lump grant of Rs. 4,50,000 provided in 1910-11 for sanitary improvements:—

	Rs.
Kurseong Municipality, for water-supply	500
Serampore Municipality, for water-works	20,000
Hooghly-Chinsurah Municipality, for water-works ...	70,000
Bagjola drainage scheme	56,000
Patna Municipality, for flushing scheme	1,500
Improved office accommodation for the Sanitary Board ...	5,400
Dredging of the Bhagirathi	20,526
Silting up and draining of the Bistupur Bhil at Berhampore	7,689
Purnea Municipality, for water-supply	1,250
Cuttack District Board, for the excavation of tanks and wells	704
Cost of Sub-Assistant Surgeons deputed to malarious localities during the fever season	12,711
Grant to the Sanitary Board for the employment of surveyors, tracers, etc., in the preparation of projects	10,000
Cost of quinine distributed during the anti-malarial operations carried on during 1909	2,850
Satkhira Municipality, for boring operations	1,000
Puri Municipality, for drainage (main outfall)	15,000
Sahebganj Municipality, for the preparation of a drainage scheme	700
Maheshpur Municipality, for sinking wells	1,250
Berhampore Municipality, for drainage (regrant)	16,000
Grant to Divisional Commissioners for petty local works of sanitary improvements (Rs. 6,000 to each)	42,000
Grant to the Sanitary Board for the purchase of instruments and boring apparatus	4,000
Darjeeling Municipality, for drainage	30,000
Angul and Khondmals, for village water-supply	2,000
Khulna Municipality, for water-works	6,000
Cost of the deputation of Dr. Crake, Assistant Health Officer, Calcutta, to ascertain the insanitary areas in Calcutta in connection with the Calcutta Improvement Scheme ...	1,075
Grant for the improvement of certain drains in the North Barrackpore Municipality	500

Bengal Provincial Revenue.

[The page numbers refer to pages on which the details are to be found.]

Receipts.		Actuals.				1910-11.		1911-12.
		1906-07.	1907-08.	1908-09.	1909-10.	Sanctioned estimate.	Revised estimate.	Budget estimate.
1		2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Opening balance	...	1,13,61,897	93,84,443	71,73,959	58,43,588	87,87,000	91,18,000	1,28,08,000
de of Revenue—		Pages.						
d venue. { Proper	...	25	1,62,06,515	1,57,44,049	1,63,79,503	1,65,99,890	1,63,03,000	1,63,63,000	1,64,84,000
{ Adjust-ments	...	26-29	12,14,548	21,01,634	48,96,393	64,92,692	33,64,000	68,87,000	—13,34,000
ps	...	29	73,53,249	77,94,137	77,99,919	78,08,695	83,93,000	79,50,000	81,00,000
se	...	29-30	80,40,696	86,33,850	85,00,502	83,96,279	85,26,000	89,00,000	1,35,75,000
rincial Rates	...	30	36,18,246	37,78,437	38,10,886	39,76,925	39,75,000	40,70,000	40,00,000
ssed Taxes	...	30	24,33,631	25,98,514	28,21,483	27,93,018	29,30,000	26,85,000	27,78,000
sts	...	31	5,32,930	5,98,326	5,92,423	5,40,320	5,50,000	6,00,000	12,00,000
istration	...	31	13,25,432	13,46,566	14,26,043	13,52,720	14,87,000	12,75,000	13,26,000
Total	...		4,06,25,347	4,25,01,002	4,61,27,151	4,79,60,539	4,56,47,000	4,57,30,000	4,62,19,000
rest	...	31-33	2,62,035	3,49,991	5,21,993	7,94,808	8,53,000	7,87,000	5,85,000
ivil Department—									
and Justice—									
Courts of Law	...	33	5,73,506	5,79,614	6,39,459	6,00,716	6,24,000	6,75,000	6,15,000
ails—	...	33	12,07,553	11,48,667	9,21,281	8,59,113	9,64,000	9,24,000	9,14,000
ice...	...	33	1,38,965	1,41,085	1,80,904	1,89,940	1,67,000	1,85,000	1,74,000
rts and Pilotage	...	33	15,39,308	14,90,707	15,55,871	15,23,485	15,48,000	16,13,000	15,85,000
cation	...	34	5,60,354	5,65,590	7,18,357	6,06,463	6,00,000	6,46,000	6,50,000
lical	...	34	2,43,355	2,38,934	2,81,555	2,90,056	2,98,000	3,45,000	3,29,000
ntific and other minor Departments		35	3,82,319	2,76,622	2,86,008	3,46,717	3,87,000	3,70,000	3,70,000
Total	...		45,45,360	44,51,219	45,83,745	44,16,480	45,88,000	47,58,000	46,37,000
—									
ipts in aid of superannuation	...	35	62,729	4,15,664	59,540	66,553	61,000	64,000	64,000
onery and Printing		36	1,34,920	1,32,763	1,29,070	1,38,569	1,34,000	1,41,000	1,42,000
ellaneous	...	36-37	6,50,181	5,86,455	6,34,688	10,09,099	7,42,000	6,90,000	6,82,000
Total	...		8,47,830	11,34,882	8,23,298	12,14,226	9,37,000	9,95,000	8,88,000
or Works (direct receipts)	...	37	23,97,523	23,80,950	26,33,820	27,02,520	25,92,000	25,25,000	12,75,000
or Works and Navigation—									
ly Public Works Department	...	37-39	6,60,499	6,52,852	5,79,908	5,63,620	6,50,000	5,50,000	3,00,000
ly Civil Department			1,18,693	1,07,147	1,02,805	1,01,900	1,07,000	1,09,000	52,000
Total	...		30,76,715	31,40,949	33,15,433	33,68,040	33,49,000	31,84,000	16,27,000
Roads—									
ivil Works—									
ly Public Works Department	...	39	3,19,625	3,41,459	3,48,202	2,55,110	3,55,000	4,00,000	7,14,000
ly Civil Department			1,81,234	1,76,872	1,83,184	1,73,766	1,80,000	1,70,000	1,70,000
Total	...		5,00,859	5,18,331	5,31,386	4,28,876	5,35,000	5,70,000	8,84,000
Contributions	...	39	4,98,936	1,01,859	.....	.....	.....	.....	.....
otal Receipts	...		6,03,47,083	5,21,98,233	5,59,03,006	5,81,81,969	5,58,09,000	5,56,74,000	5,45,40,000
Grand Total	...		6,16,13,979	6,15,32,676	6,20,76,965	6,40,25,557	6,46,65,000	6,79,82,000	6,71,48,000

Bengal Provincial Expenditure.

[The page numbers refer to pages on which the details are to be found.]

EXPENDITURE.	Pages.	ACTUALS. 1906-07.	1907-08.	1908-09.	1909-10.	1910-11. Sanctioned estimate.	Revised estimate.	191 Be est
1		2	3	4	5	6	7	
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
and on the revenues—								
unds and drawbacks	40	1,16,578	1,51,195	1,81,333	1,43,505	1,35,000	1,50,000	1,
ignments and Compen-								
tions	40	69,325	63,020	66,107	65,363	70,000	69,000	
d Revenue ...	40-42	35,26,900	37,18,322	37,10,161	37,24,433	39,86,000	38,60,000	40,
mps	42-43	2,04,010	2,04,977	2,31,194	2,15,932	2,52,000	2,16,000	2,
ise	43-44	3,71,560	3,86,524	3,92,768	4,35,664	4,42,000	4,50,000	7,
vincial Rates ...	45	55,784	45,282	41,429	42,379	64,000	53,000	
essed Taxes ...	45	75,115	76,530	80,002	77,658	82,000	78,000	1
esta	46	3,16,244	3,56,697	2,91,991	2,95,550	3,32,000	3,29,000	7,
istration	47	6,42,687	7,52,168	8,14,977	7,78,634	8,18,000	7,77,000	7,
Total	...	53,78,203	57,54,700	57,60,761	57,79,367	61,76,000	59,82,000	69,
erest on ordinary Debt	47	2,36,226	3,02,381	4,92,409	6,37,775	5,68,000	5,57,000	4,
nd Expenses of Civil								
tment—								
neral Administration ..	48	18,41,137	18,78,542	19,06,794	19,01,893	21,02,000	20,16,000	24,
w and { Courts of Law	49-50	74,09,966	75,61,396	83 75,876	82,75,098	82,43,000	88,08,000	87,
ustice { Jails ...	51	26,63,436	26,96,952	27,70,423	25,29,720	28,71,000	24,58,000	27,
lice	52-55	69,05,441	73,93,347	80,25,874	81,57,764	84,75,000	82,26,000	85,
rts and Pilotage ..	55	11,74,953	11,95,783	22,62,056	11,79,559	12,93,000	12,65,000	11,
ucation	56-59	38,50,749	45,52,692	55,28,726	55,68,813	59,17,000	55,53,000	70,
edical	60-62	21,96,753	22,41,779	23,28,035	23,88,148	25,16,000	23,74,000	24,
litical	62	41,248	47,083	52,404	51,943	59,000	63,000	
entific and other Minor								
Departments ...	63	9,73,964	10,76,142	12,26,465	12,20,110	14,32,000	13,79,000	14,
Total	.	2,70,56,787	2,86,38,616	3,24,76,553	3,12,93,047	3,29,08,000	3,21,42,000	3,47,3
eous—								
perannuation, etc. ...	64	24,86,467	25,91,643	26,27,146	27,13,983	28,11,000	27,86,000	28,
stionery and Printing	64	12,85,202	14,67,251	13,85,988	13,17,476	14,16,000	12,83,000	13,
iscellaneous ...	65	3,46,620	3,91,254	5,69,380	3,93,697	4 98,000	3,44,000	6,
Total	...	41,18,289	44,50,148	45,32,509	44,24,156	47,25,000	44,13,000	47,
elief and Insurance—								
amine Relief ...	...	7,11,138	.....	1,56,824	2,66,617	.....	.....	...
eduction or avoidance of								
debt	...	.....	2,60,000	2,60,000	2,60,000	2,60,000	2,60,000	2,
(Revenue Accounts)—								
ubsidised Companies—								
Land, etc.		.....	3,413	.....	.....	2,000	4,000	...
Total	...	7,11,138	2,63,413	4,16,824	5,26,617	2,62,000	2,64,000	2,
—								
ajor Works—								
Working expenses ...	66	11,88,907	14,25,201	13,97,147	14,62,472	13,50 000	14,91,000	7,
Interest on Debt ...	66	21,21,310	21,06,966	20,90,527	20,75,292	20,92,000	20,76,000	10,
inor Works and Navigation—								
By Public Works Department ...	66-69	19,06 731	18,77,214	20,33,056	21,50,218	22,72,000	21,00,000	10,
By Civil Department ...		10,211	12,680	11,116	11,653	8,000	8,000	
Total	...	52,27,159	54,32,061	55,30,846	56,99,640	57,22,000	56,75,000	28,
s and Roads—								
ivil Works—								
By Public Works Department ...	69-70	66,93,428	72,58,932	62,93,860	49,51,064	52,59,000	50,50,000	50,
By Civil Department ...		1,87,060	4,04,293	17,39,575	16,76,288	19,26,000	16,01,000	34,
Total	..	68,80,488	76,63,225	80,33,375	66,27,302	71,85,000	66,51,000	85,
Contributions ...	71	26,26,296	19,19,273	.....	.....	.....	.....	...
Total charges	..	5,22,34,536	5,44,06,717	5,72,33,377	5,69,07,904	5,75,46,000	5,56,84,000	5,85,7
Closing balance	...	98,54,443	71,73,959	88,43,588	91,17,652	70,00,000	1,23,08,000	66,7

Bengal Provincial Receipts, in detail of minor heads.

[Figures in columns (7) and (8) are those passed by the Government of India.]

The remarks in column 9, except where otherwise especially explained, refer to difference between columns 6 and 8.

I.—Land Revenue—

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Gross Land Revenue ...	2,89,04,871	2,92,06,720	2,92,79,443	3,04,85,296	3,02,92,000	3,04,00,000	3,04,13,000	The increase in 1909-10 was due to better collections of the current and arrear demands.
Deduct collections from Government estates which are wholly Provincial ...	34,12,948	30,36,761	35,37,651	36,08,044	34,67,000	34,26,000	35,22,000	
Deduct recoveries of Survey and Settlement charges which are Imperial ...	—95,210	7,54,384	2,52,088	8,93,560	11,55,000	11,00,000	10,97,000	
Total Deductions ...	33,17,738	37,91,145	37,89,739	45,01,604	46,22,000	45,26,000	46,19,000	
Net amount divisible between Imperial and Provincial ...	2,55,87,133	2,54,14,575	2,54,83,704	2,59,83,692	2,56,70,000	2,58,74,000	2,57,84,000	
Provincial share of above ...	1,27,93,567	1,27,07,288	1,27,41,852	1,29,91,846	1,28,35,000	1,29,37,000	1,28,92,000	
Add collections from Government estates	34,12,948	30,36,761	35,37,651	36,08,044	34,67,000	34,26,000	35,22,000	Budget based on the estimates furnished by the Local officers.
Total Provincial ...	1,62,06,515	1,57,44,049	1,62,79,503	1,65,99,890	1,63,02,000	1,63,63,000	1,64,24,000	Revised based on the actuals of the first ten months.
Add on account of adjustments as shown on next page ...	13,14,548	21,01,634	48,96,393	64,93,692	33,64,000	68,87,000	(—)12,34,000	
Grand Total (Provincial share)	1,74,21,063	1,78,45,683	2,11,75,896	2,30,93,582	1,96,66,000	2,32,50,000	1,51,90,000	

Heads.	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
Contributions from Imperial to Provincial.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Fixed adjustment under the Provincial Settlement ...	7,39,000	7,39,000	7,39,000	7,39,000	7,39,000	7,39,000	(—)19,87,000	
Assignment for Police reforms ...	4,00,000	8,00,000	12,00,000	14,50,000	17,67,000	17,67,000	.....	
For Technical education ...	35,000	35,000	35,000	35,000	35,000	35,000	.....	Included under the fixed adjusting entry under the new Provincial Settlement.
For European and Eurasian education	65,000	65,000	65,000	65,000	65,000	65,000	.....	
For University and Collegiate education	1,60,000	1,60,000	1,60,000	1,60,000	1,60,000	1,60,000	.....	
On account of the abolition of the Patwari Cess in Sambalpur ...	26,000	26,000	26,000	26,000	26,000	26,000	.....	
On account of expenditure in connection with the Settlement operations in the Chanderpur Padampur estate and Phaljhar zamindari in the Central Provinces	5,000	.....	.....	.....	.....	.....	.....	
On account of the Madaripur Bhil Route (Maintenance) ...	50,000	50,000	50,000	50,000	50,000	50,000	50,000	
For capital expenditure on ditto	.....	50,000	83,858	1,61,340	1,53,000	1,87,000	1,76,000	Represent a moiety of the net capital outlay on the scheme payable by the Government of Eastern Bengal and Assam.
For education of students from Eastern Bengal and Assam in the Serampore Weaving School	.....	.....	.....	.....	.....	1,000	3,000	
For Cantonment Magistrates ...	29,000	.....	.....	.....	.....	.....	.....	Imperialized with effect from the 1st April 1907.
In connection with the Famine-relief Scheme	.....	2,60,000	2,60,000	2,60,000	2,60,000	2,60,000	2,60,000	
For Archæological expenditure	10,000	7,134	6,000	5,328	.....	4,000	.....	
For the repairs of Archæological remains at Monair ...	706	.....	.....	.....	.....	.....	.....	
For special contribution to Provincial revenues ...	.....	.....	16,95,000	30,42,000	.....	.....	.....	These were special Imperial assignments made partly in order to make good the Provincial deficit and partly to restore the normal scale of expenditure on Civil Works.
For expenditure on Education	.....	.....	.....	.....	.....	24,50,000	.....	
For expenditure on Sanitation ...	.....	.....	.....	.....	.....	10,00,000	.....	
Contribution from Eastern Bengal and Assam towards the preparation of a standard book on silver work	.....	.....	.....	.....	.....	3,000	.....	
For the continuous maintenance of records in Orissa	.....	29,000	59,000	88,000	1,18,000	1,18,000	1,47,000	

Government of India ...	16,000	16,000	18,450	20,400	20,000	20,000	20,000	
Contribution from Eastern Bengal and Assam to the Belgachia Veterinary College	28,000	28,000	28,000	28,000	28,000	28,000	28,000	
For charges in connection with Major Sutherland's enquiry in the Medical College ...	.....	.....	12,000	23,000	.....	.....	.....	
Grant for special bonus to low paid Government servants	.....	.....	1,31,175	.....	.....	.....	.....	
Transfer of buildings occupied by the Superintendent, Post Office, Cuttack, to Imperial	.....	.....	5,070	.....	.....	.....	.....	
Charges in connection with Captain McCay's deputation to conduct an enquiry into the subject of jail dietaries ...	.....	.....	9,887	13,512	.....	2,000	.....	
Fees paid by the Eastern Bengal and Assam Government to the Sanitary Board, Bengal, for the preparation of the water-work scheme of the Barisal Municipality	.....	.....	4,143	.....	.....	.....	.....	
For the excavation of Agam Kuan (well) in Patna ...	.....	.....	.....	700	.....	.....	.....	
On account of the provincialization of the Dhaka Canal ...	12,000	12,000	12,000	12,000	12,000	12,000	.....	
For the transfer of a portion of the cost of the Calcutta Collectorate from the divided head of Excise to the wholly provincial head of Land Revenue ...	.....	.....	4,330	4,330	4,000	4,000	.....	
For the net charges of Inland Labour Transport in Bengal payable by Eastern Bengal and Assam	.....	.....	13,000	13,000	13,000	13,000	.....	
For increased remuneration to the Solicitor to Government ...	.....	36,000	36,000	36,000	36,000	36,000	.....	
To meet extra expenditure on account of supplies by the Central Press, Calcutta, to the provincial Presses ...	.....	2,000	2,000	2,000	2,000	2,000	.....	Included under the fixed adjusting entry.
For transfer of the control of the Government gardens in and near Calcutta to the Superintendent, Royal Botanic Gardens	.....	10,500	10,500	2,500	3,000	3,000	.....	The decrease is due to the re-transfer of the control of the Government House gardens to the Military Department.
Grant to the Bibliotheca Indica Fund of the Asiatic Society ...	.....	3,000	3,000	3,000	3,000	3,000	.....	
On account of the remission of banking fees charged to Local Funds in respect of their transactions with Government treasuries	.....	70,000	70,000	70,000	70,000	70,000	.....	

1	2	3	4	5	estimate 6	estimate. 7	estimate. 8	9
	Rs	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
For relief of Municipalities from Police charges ...	...	...	21,000	21,000	21,000	21,000	.....	Included under the fixed adjusting entry.
Expenditure on cemeteries ..	.....	4,000	4,000	4,000	4,000	4,000	.....	
On account of the remission of audit fees hitherto charged to local bodies	...	66,000	66,000	66,000	66,000	66,000	.....	
Assignment for works of sanitary improvements	.....	.....	4,50,000	4,50,000	4,50,000	4,50,000	.....	
For audit of the Calcutta Municipal accounts	...	.....	.....	11,000	11,000	11,000	.....	
Special recurring contribution from 1911-12.	.....	.....	.....	.....	.....	.....	.....	Rupees 7,46,000 sanctioned but included under the fixed adjusting entry.
Conduct of the Overseer and Sub-Overseer examinations of Eastern Bengal and Assam ...	.....	.....	.....	3,669	.....	.....	.....	The Government of Eastern Bengal and Assam now pays the charge direct to the Examination Board.
Cost of printing and publishing the text-books for the High Proficiency and Degree of Honour Examinations in the Tibetan language	.....	.....	.....	1,708	.....	.....	.....	
For training in agriculture of Babu J. N. Chakravarty whose services have been transferred to Eastern Bengal and Assam	.....	.....	.....	8,310	.....	.....	.....	
On account of the rent payable by the Survey and Settlement parties, Midnapore, for the temporary occupation of the new Collectorate buildings ...	.....	.....	.....	.....	.....	30,000	.....	
Grant to the Calcutta Improvement Trust	.....	.....	.....	.....	.....	.....	1,50,000	
Deduct Contribution from Provincial to Imperial.								
Transfer of the balance of the District Dák Funds to Imperial	2,17,780	.....	.....	.....	.....	.....	.....	
Excess credit to Provincial on account of the gardens at Government House ...	.....	.....	16,000	.....	.....	.....	.....	
On account of the abolition of the Superannuation Fund ...	21,000	21,000	21,000	21,000	21,000	21,000	...	

Recovery of contribution from Provincial in connection with the new scheme of taxation under Stamps and Excise ...	.....	.....	.....	.....	3,69,000	3,69,000	.....	Included under the fixed adjusting entry.
For excess of receipts over charges in the office of the Agent for Government Consignments, Calcutta, which has been provincialised	.....	.....	.....	16,000	16,000	16,000	.....	
Assignment from Provincial to Imperial under the terms of the new financial settlement ..	.....	.....	.....	.....	.....	.....	.....	Rupees 54,68,000 has been included under the fixed adjusting entry.
For the transfer of the charge of the office of the Examiner of Public Works Accounts from Provincial to Imperial .	.....	.....	.....	.....	.....	.....	81,000	
Net sum to be transferred from Provincial to Imperial ...	12,14,548	21,01,634	48,93,393	64,92,692	33,64,000	68,87,000	(—)12,34,000	

IV.—Stamps—

Sale of general stamps ...	42,94,584	46,14,354	46,86,068	48,45,196	53,36,000	43,25,000	43,50,000	
Do. of court-fee stamps ...	1,00,20,443	1,04,46,237	1,06,02,066	1,09,33,930	1,10,35,000	1,12,05,000	1,14,80,000	
Do. of plain-paper to be used with court-fee stamps ...	1,93,781	1,98,283	1,90,669	2,05,825	2,10,000	2,10,000	2,10,000	
Duty on impressing documents	1,71,939	3,08,724	80,712	61,724	1,50,000	1,20,000	1,20,000	
Fines and penalties ...	20,092	21,689	28,303	28,214	40,000	30,000	30,000	
Miscellaneous	5,859	8,988	12,020	42,510	15,000	10,000	10,000	
Total ...	1,47,06,698	1,55,88,275	1,55,99,838	1,56,17,389	1,67,86,000	1,59,00,000	1,62,00,000	Revised based on ten months' actuals.
Provincial share ...	73,53,349	77,94,137	77,99,919	78,08,695	83,93,000	79,50,000	81,00,000	

V.—Excise—

License and distillery fees for the sale of liquors and drugs—								
Foreign liquors ...	2,99,985	3,70,106	2,94,959	3,20,101	2,90,000	3,30,000	3,20,000	
Indian-made liquors excised at tariff rates ...	7,73,193	9,03,682	7,90,167	8,57,285	8,62,000	2,00,000	2,30,000	The decrease is due to the fact that revenue from *pachwai*, which was hitherto included under this head, is now shown separately.
Country spirits—								
License fees—								
Distillery	16,76,693	92,98,836	89,87,331	86,45,732	90,00,000	90,50,000	91,50,000	
Outstills	39,92,236							
Still-head duty ..	29,31,323							
Miscellaneous ...	86,465							
Toddy revenue	11,35,078	11,82,292	12,39,503	12,60,646	12,00,000	14,80,000	14,80,000	
Opium and its preparation ...	6,20,681	6,25,483	6,57,942	6,68,175	6,60,000	7,00,000	7,20,000	
Other drugs, ganja, bhang, etc.	13,40,024	13,16,544	14,06,182	14,36,028	14,00,000	15,00,000	15,00,000	
Pachwai revenue ...	.....	.....	.....	.....	.....	7,00,000	7,50,000	
Total ...	1,28,56,678	1,35,96,943	1,33,76,074	1,31,87,967	1,34,12,000	1,39,50,000	1,41,50,000	The increase in the revised is due to better settlements and increased consumption.

1	2	3	4	5	estimate. 6	estimate. 7	estimate. 8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Gain on sale-proceeds of excise opium	17,31,399	19,96,606	20,59,997	19,04,121	20,50,000	19,36,000	19,61,000	The decrease is due to diminished consumption in Calcutta where the restrictive system is in force.
Duty on ganja	14,71,197	14,60,889	15,42,247	16,78,101	15,68,000	18,90,000	19,65,000	The increase is attributed to the general prosperity of the year and to reduction in retail prices.
Fines, confiscations and miscellaneous	23,118	23,261	21,016	22,369	22,000	24,000	24,000	
Transit duty on excise opium ...	.....	.....	1,670	.....	.....	.....	.....	
GRAND TOTAL ...	1,60,81,392	1,70,77,699	1,70,01,004	1,67,92,558	1,70,52,000	1,78,00,000	1,81,00,000	Revised based on eleven months' actuals. The increase is due to the favourable agricultural prospects.
Provincial share (three-fourths in 1911-12)	80,40,696	85,38,850	85,00,502	83,96,279	85,26,000	89,00,000	1,35,75,000	
VI.—Provincial Rates—								
Public Works Cess ...	34,91,470	36,18,453	36,60,066	38,05,619	37,90,000	39,20,000	38,20,000	The decrease in 1911-12 as compared with the revised estimate for 1910-11 is due to the expected falling off in the cess receipts on mines owing to the depressed condition of the trade in coal.
General rates for the management of private estates ...	1,26,776	1,59,984	1,50,820	1,71,306	1,85,000	1,50,000	1,80,000	
Total ...	36,18,246	37,78,437	38,10,886	39,76,925	39,75,000	40,70,000	40,00,000	
VIII.—Assessed Taxes—								
Deductions by Government from salaries and pensions, etc. ...	4,20,988	4,27,164	4,40,522	4,49,067	4,60,000	4,45,000	5,07,000	Budget includes the deductions from salaries in the Public Works Department which will be divided in equal proportions between Provincial and Imperial Revenues with effect from 1911-12.
Deductions by Government from interest on Government securities	21,801	23,890	24,053	23,322	26,000	24,000	25,000	
Deductions from salaries, etc., paid by local authorities or companies	58,387	58,699	63,240	68,989	63,000	69,000	70,000	
Income-tax on securities of local authorities or companies ...	1,02,747	1,11,088	1,27,334	1,28,065	1,27,000	1,47,000	1,40,000	
Ordinary collections ...	42,44,122	45,56,085	49,71,118	48,99,498	52,06,000	46,65,000	47,96,000	The decrease in the revised is mainly due to smaller collections in Calcutta, Burdwan and Manbhum.
Penalties	11,114	11,786	9,344	8,996	10,000	11,000	10,000	
Miscellaneous	8,103	9,376	7,363	8,110	8,000	9,000	9,000	

mber and other produce removed from the forests by Government agency ...	46,155	50,628	17,669	28,370	16,700	62,000	54,000	The increase both in the revised and the Budget is due to the working of timber in Puri and Angul by government agency instead of through private parties.
mber and other produce removed from the forests by consumers or purchasers ...	9,82,885	11,01,553	11,24,366	10,16,733	10,41,700	11,02,000	11,60,000	The operations of the Bengal Timber Trading Company in the Singhbhum Division are expected to extend and larger receipts are anticipated from the sale of timber in the Sundarbans Division.
nfiscated drift and waif wood	4,085	5,506	1,937	2,222	3,600	3,000	3,000	
iscellaneous	32,734	39,964	40,874	33,315	38,000	33,000	33,000	
Total ...	10,65,859	11,97,650	11,84,846	10,80,640	11,00,000	12,00,000	12,50,000	Revised based on ten months' actuals.
Provincial share ...	5,32,930	5,98,825	5,92,423	5,40,320	5,50,000	6,00,000	12,50,000	Made wholly Provincial with effect from 1911-12.
—Registration—								
ees for registering documents...	11,37,637	12,47,672	13,27,151	13,46,687	13,77,000	11,75,000	12,25,000	
ees for copies of registered documents	32,005	37,703	37,437	40,625	44,000	38,000	39,000	
iscellaneous	55,790	61,181	61,456	65,508	66,000	62,000	62,000	
Total ...	12,25,432	13,46,556	14,26,043	13,52,720	14,87,000	12,75,000	13,26,000	Revised based on ten months' actuals. Fewer registrations were effected in consequence of the favourable agricultural conditions.
III.—Interest—								
Class I.—Interest on advances to cultivators—								
On advances to cultivators under the Land Improvement Loans Act ...	25,138	1,04,494	41,519	3,21,121	4,25,000	3,10,000	1,75,000	The decrease in the revised is due to the fact that larger recoveries were made in 1909-10 than were anticipated.
On advances to cultivators under the Agriculturists' Loans Act, XXII of 1884	27,094		93,933					
On loans to Co-operative Credit Societies ...	76	—68	60	614	1,000	1,000	1,000	
Class II.—Interest on advances under Special Laws—								
On advances under the Public Demand and Recovery Act, 1895	—13,307	33,068	43,272	37,474	27,000	22,000	25,000	
On drainage and embankment advances ...								
Class III.—Interest on loans to land-holders, etc. ...	10,841	7,454	1,31,031	2,12,574	1,73,000	1,91,000	1,60,000	
Class IV.—Interest on loans to Municipal and other public Corporations (excluding Presidency Corporations) ...	1,52,614	1,61,766	1,78,378	1,76,452	1,84,000	1,73,000	1,85,000	
Interest on Government securities	7,046	7,094	7,070	6,634	8,000	8,000	8,000	
Interest on famine advance ...	.....	2,058	.....	7,450	.....	.....	.....	

Heads.	1906-07.	1907-08.	1908-09.	1909-1910.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
Miscellaneous—	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Interest on arrears of Public Works Cess	33,493	31,864	34,246	30,123	32,000	30,000	29,500	
Other items	17,720	1,264	1,748	1,674	2,000	1,500	1,000	The actuals of 1906-07 included interest on debentures held by the Calcutta Police Superannuation Fund which were sold in 1907-08.
Interest on zamindari embankment recoveries, etc. ...	1,320	982	746	892	1,000	500	500	
Total Miscellaneous ...	52,533	34,110	36,740	32,689	35,000	32,000	31,000	
Total ...	2,62,035	3,49,991	5,21,993	7,94,808	8,53,000	7,37,000	5,85,000	
XVIA.—Law and Justice—Courts of Law—								
Sale-proceeds of unclaimed and escheated property ...	28,611	25,045	73,220	24,389	28,000	25,000	26,000	There were special receipts of Rs. 43,000 in the district of Bhagalpur in 1908-09.
Court-fees realised in cash ...	18,360	21,709	21,227	20,683	21,000	50,000	21,000	Revised includes special receipts on account of process-servers' fees in Midnapore, Khulna and Shahabad.
General fees, fines and forfeitures	4,86,840	4,86,592	5,04,052	5,07,085	5,30,000	5,52,000	5,20,000	
Pleadership Examination fees ...	25,504	26,493	27,483	28,686	29,000	30,000	29,000	
Miscellaneous fees and fines ...	2,297	2,285	805	1,233	1,000	1,000	1,000	
Miscellaneous	11,894	17,490	12,682	18,640	15,000	17,000	18,000	
Total ...	5,73,506	5,79,614	6,39,469	6,00,716	6,24,000	6,75,000	6,15,000	Revised based on the actuals of the first nine months.
XVIB.—Jails—								
Jails	14,037	16,287	12,312	13,577	14,000	14,000	14,000	
Jail Manufactures	11,93,516	11,42,380	9,08,969	8,45,536	9,50,000	9,10,000	9,00,000	The decrease in 1909-10 was due to smaller supplies of goods to the Police and Ordnance Departments.

Police supplied to Municipal and Town Funds ...	.....	.....	39	.. ...	.....	.....	.....	
Police supplied to public Departments, private Companies and persons	30,793	18,386	64,508	74,226	60,000	64,000	55,000	The increase in 1908-09 and 1909-10 was due to unusual recoveries on account of punitive police which are expected to be more normal in 1911-12.
Presidency Police	76,232	75,106	75,298	76,783	77,000	76,000	77,000	
Recoveries on account of village police	491	588	1,994	2,212	2,000	5,000	4,000	
Fees, fines and forfeitures ...	25,359	27,104	27,818	27,013	27,000	28,000	27,000	
Superannuation receipts ...	1	.....	.....	286	.....	.....	.....	
Miscellaneous	6,089	19,899	11,747	9,420	11,000	12,000	11,000	
Total ..	1,38,965	1,41,085	1,80,904	1,89,940	1,67,000	1,85,000	1,74,000	Revised based on the actuals of the first nine months.

XVIII.—Ports and Pilotage—

Sale-proceeds of vessels and stores	.....	1,580	22,003	.....	1,000	.....	1,000	The actuals of 1908-09 included the sale-proceeds of the pilot vessel *Fame*.
Registration and other fees ...	73,362	70,848	75,205	76,307	72,000	82,000	72,000	The Government of Eastern Bengal and Assam is making its own arrangements for the examination of Masters, Serangs, etc.
Pilotage receipts { Calcutta ...	13,73,590	13,33,777	13,76,808	13,53,024	13,90,000	14,36,000	14,30,000	Larger receipts are expected owing to the improvement in trade.
Pilotage receipts { Balasore ...	.....	.....	.....	.....	.....	.....	.....	
Lead-money for Volunteers ...	16,697	16,375	12,091	14,364	12,000	14,000	14,000	
Miscellaneous—								
Deductions for mess-money ...	12,967	12,595	13,155	14,150	13,500		14,000	
Marine survey	44,545	39,675	37,024	38,197	40,000		34,000	The Government of Eastern Bengal and Assam has made its own arrangements for the survey of vessels at Goalundo.
Overtime fees	8,192	8,175	8,384	9,152	8,400		10,000	
Miscellaneous receipts of the Shipping Office ...	5,926	4,725	5,079	7,388	6,150		5,000	
Other items	3,537	3,887	6,122	3,809	5,000		5,000	
Sale-proceeds of old stores and materials	.....	.....	.....	5,994	...		.....	Represents the sale-proceeds of the steam-launch *Enchantress*.
Fees for certificates of inland vessels under Act VI of 1884	472	70	.....	.. ...	.....		.....	
For rounding ...	.....	.....	.....	...	—50		.....	
Total Miscellaneous ...	75,659	69,127	69,764	78,790	73,000	81,000	68,000	
GRAND TOTAL ...	15,39,908	14,90,707	15,56,871	15,22,485	15,48,000	16,13,000	15,85,000	Revised based on the actuals of the first nine months.

Heads.	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Fees, Government Colleges—								
General	1,77,418	1,90,152	1,73,723	2,26,615	2,13,000	2,34,000	2,42,000	
Professional	47,152	50,229	31,107	39,110	37,500	36,000	36,000	
Fees, Government Schools—								
General	2,58,023	2,62,832	2,97,604	2,82,986	2,73,000	3,00,000	3,01,000	
Special	13,962	12,239	11,088	15,626	18,000	15,000	15,000	
Contributions from Native States, private persons and Municipalities	10,973	8,864	13,497	11,507	13,000	21,000	13,000	
Income from endowments ...	.....	1	14	...	.....	.....	7,000	
Miscellaneous	53,826	41,273	1,91,344	30,609	45,500	40,000	36,000	The actuals of 1908-09 included the refunds made by District Boards of the amounts placed at their disposal in previous years for primary school buildings.
Total ...	5,60,354	5,65,590	7,18,357	6,06,453	6,00,000	6,46,000	6,50,000	Revised based on the actuals of the first nine months.

XX.—Medical—

Medical School and College fees	51,294	50,844	59,170	66,889	63,000	70,000	75,000	Larger fees are expected from the Medical College.
Hospital receipts (receipts from paying patients) ...	1,11,387	1,14,858	1,47,055	1,45,012	1,50,000	1,63,000	1,60,000	
Lunatic Asylum receipts ...	17,836	18,060	14,615	18,633	15,000	24,000	24,000	
Contributions (from Municipalities and private persons) ...	47,729	48,914	47,392	45,672	57,000	57,000	56,000	The figures for 1910-11 and 1911-12 include increased contributions from the Calcutta Corporation towards the Campbell Hospital and the Sambhu Nath Pundit Hospital.
Medicines sold to Civil Surgeons	29	14	39	547	.....	1,000	1,000	
Miscellaneous	15,080	6,744	23,731	22,331				

XXI.—Scientific and other Minor Departments—

Botanical and other public garden receipts ...	2,075	1,812	2,079	2,531	2,500	3,000	3,000	
Veterinary and stallion receipts	28,317	33,839	33,451	29,537	35,000	35,000	30,000	
Cinchona plantation ...	2,06,978	2,06,267	1,92,238	2,43,066	2,60,000	2,60,000	2,57,000	
Agricultural receipts including receipts on account of experimental cultivation ...	2,206	9,816	12,920	31,265	54,000	31,000	40,000	The increased receipts are due to the opening of several new farms and to the realisation of College fees and dieting charges from the students of the Bengal Agricultural College at Sabour.
Public exhibitions and fairs ...	.....	281	22	243	.....	500	.....	
Emigration fees	41,684	25,336	26,743	29,330	28,000	26,000	28,000	
Inland Labour fees ...	.....	.....	15,722	9,973	16,000	10,000	10,000	
Examination fees	1,966	770	2,757	620	1,500	500	1,000	
Miscellaneous	103	1	76	152	.....	4,000	1,000	
Total ...	2,82,319	2,76,622	2,86,008	3,46,717	3,87,000	3,70,000	3,70,000	Revised based on the actuals of the first nine months.

XXII.—*Receipts in aid of Superannuation*—

Family subscriptions of Indian members of the Covenanted Civil Service	1,622	1,609	1,586	1,679	2,000	1,000	.....	No provision made for 1911-12 as the only subscriber has retired from service with effect from the 6th September 1910.
Contributions for pensions and gratuities—								
Contributions of officers lent to Foreign service of the first and second kind ...	38,747	42,555	39,461	42,629	39,000	41,000	42,000	Estimates based on actuals.
Contributions of persons employed for the management of private estates under Act X of 1892 ...	8,011	4,545	3,463	6,488	5,000	7,000	6,000	
Annuity deductions of Covenanted Civilians lent to Native States, etc., for short terms	1,680		2,062	2,060	2,000	2,000	2,000	
Refund of gratuities ...	40	2,227	.....		.. ...		.....	
Deductions for Marine Pension Fund	13,563	11,751	12,968	13,712	13,000	13,000	14,000	
Miscellaneous	66	3,52,977	.. ...	...	.....	.....	.....	The actuals of 1907-08 represented the sale-proceeds of the Calcutta Municipal debentures belonging to the Police Superannuation Fund.
Total ...	62,729	4,15,664	59,540	66,558	61,000	64,000	64,000	

1	Actuals. 2	Actuals. 3	Actuals. 4	Actuals. 5	Sanctioned estimate. 6	Revised estimate. 7	Budget estimate. 8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Stationery receipts	2,243	2,249	2,599	1,421	2,500	2,000	2,000	
Sale of Gazettes and other publications	1,00,6:4	95,561	94,191	1,07,680	95,900	1,10,000	1,12,000	
Other Press receipts ...	32,053	34,963	32,280	29,468	35,600	29,000	28,000	The decrease in the revised is under receipts for work done for local and private bodies.
Total ...	1,34,920	1,32,763	1,29,070	1,38,569	1,34,000	1,41,000	1,42,000	Revised based on the actuals of the first nine months.
XXV.—Miscellaneous—								
Recovery on account of famine expenditure	.....	.....	3,823	5,841	4,000	.....	.....	
Unclaimed deposits... ...	4,36,132	4,06,717	4,64,451	7,06,456	4,05,000	3,54,000	4,50,000	
Treasure-trove	4	1,016	2	11	... ..	.....	.....	
Sale-proceeds of Durbar presents	2,190	15,519	19,961	5,100	3,000	22,000	11,000	
Sale of old stores and materials	1,278	3,013	1,239	46,612	2,000	19,000	2,000	The actuals of 1909-10 included Rs. 40,000 being the sale-proceeds of the steam-trawler *Golden Crown*. Revised includes the sale-proceeds of stock and machinery at Fraserganj.
Sale of lands and houses, etc. ...	6,987	1,919	296	91,660	1,80,000	1,38,000	40,000	The actuals of 1909-10 included a moiety of the sale-proceeds of the Jorabagan thana. Revised includes the other moiety and the sale-proceeds of buildings at Fraserganj. Budget represents the sale-proceeds of the land and buildings of the old Garden Reach thana.
Fees for Government audits ...	49,994	15,759	27,085	15,691	19,000	21,000	26,000	Budget includes expected recoveries of arrears. The actuals of 1906-07 included audit fees for Municipal accounts which have been abolished with effect from 1907-08.
Rents	17,066	22,421	18,043	16,730	19,000	21,000	18,000	
Miscellaneous fees, fines and forfeitures	3,155	2,570	2,972	4,077	3,000	5,000	4,000	
Contributions	27,193	.....	.....	.....	.....	.....	.....	The levy of banking fees was abolished with effect from 1907-08.
Miscellaneous—								
Fees and fines of Revenue Courts	60,196	66,532	67,420	72,116	67,000		67,000	
Recoveries of Law charges other than those in pauper suits	16,933	21,370	16,372	14,040	17,000		14,000	
Value of mathematical stores returned	.....	2,563	208	.....	.....		.....	
Sundry receipts—Circuit-house	795	345	183	290	500		500	
Miscellaneous receipts on account of Public Works Cess under Act IX (B.C.) of 1880	.....	.....	.....	.....	.....	.....	.....	

ment of Wards' estates ...	403	1,175	1,076	1,588	.....		2,000	
Sale-proceeds of trees on tea-lands	205		.....	.....	.....		.....	
Sale of elephants	12,900	6,406	.....	...	5,000		30,000	A larger number of elephants is expected to be sold.
Other items	14,107	19,130	14,299	27,466	16,500		16,500	
Total Miscellaneous ...	1,06,182	1,17,521	96,816	1,17,021	1,07,000	1,10,000	1,31,000	
GRAND TOTAL ...	6,50,181	5,86,455	6,34,688	10,09,099	7,42,000	6,90,000	6,82,000	

XXIX.—Major Works—(Direct Receipts)—

Orissa Canals	5,01,729	4,87,689	5,14,772	5,27,884	4,93,000	5,16,000	5,16,000	
Midnapore Canal	1,56,521	1,53,330	1,74,734	2,02,123	1,93,000	1,94,000	1,89,500	
Hijili Tidal Canal	71,516	58,703	46,055	63,742	73,000	57,000	57,000	
Sone Canals	15,64,819	16,63,360	18,71,088	18,95,203	18,22,000	17,47,000	17,66,000	The decrease in the revised is due to the smaller area irrigated during the hot weather of 1910.
Dhaka Canal	2,944	17,868	27,171	13,568	11,000	11,000	12,500	
Tribeni Canal	..	.....	.....	...	... ..	.....	10,000	
Total ...	23,97,528	23,80,950	26,33,820	27,02,520	25,92,000	25,25,000	25,50,000	
Provincial share	23,97,528	23,80,950	26,33,820	27,02,520	25,92,000	25,25,000	12,75,000	This wholly Provincial head will be divided with effect from 1911-12.

XXX.—Minor Works and Navigation—

IN CHARGE OF THE CIVIL DEPARTMENT.							
Recoveries on account of lands benefited by embankments ...	1,14,382	1,07,147	1,02,906	1,01,900	1,07,000	1,09,000	1,04,000	The increase in the revised is due to recoveries of arrears Budget is based on the normal demand
Recoveries on account of the capitalized maintenance charges of the Rajapur Drainage Project	4,306	...	.....	.....	.....	.....	....	
Total in charge of the Civil Department	1,18,688	1,07,147	1,02,906	1,01,900	1,07,000	1,09,000	1,04,000	
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT. (Irrigation and Navigation Works)								
Works for which Capital and Revenue accounts are kept—								
Orissa Coast Canal ...	37,738	25,049	29,859	26,179	27,000	26,000	26,000	
Saran Canals	797	717	1,158	775	1,000	700	700	
Calcutta and Eastern Canals Madaripur Bhil scheme	5,03,968	5,23,510	4,32,012 / 38,107	3,80,758 / 47,769	4,70,000 / 51,000	3,70,000 / 5,4000	4,11,000 / 56,000	The decrease in the revised is due to the closure of the Bhangore Khal and Chitpur lock.
Total ...	5,42,503	5,49,276	4,92,136	4,55,481	5,49,000	4,50,700	4,93,700	

Heads.	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
	Rs.	Rs	Rs.	Rs.	Rs.	Rs.	Rs.	
Works for which only Revenue accounts are kept—								
Nadia Rivers	45,515	35,235	28,765	34,406	30,000	33,000	32,000	
Gaighatta and Buxi Khal ...	3,000	2,500	3,469	4,500	4,500	5,000	5,000	
Total ...	48,515	37,735	32,234	38,906	34,500	37,000	37,000	
Works for which neither Capital nor Revenue accounts are kept—								
Eden Canal	29,131	18,968	19,857	15,725	21,000	26,000	26,000	
Teur „	1,635	5,823	5,125	7 550	5,500	2,500	5,000	
Sugarcane irrigation in Bihar	2,000	.....	.....	.....	.....	.....	.....	
Damodar project ...	.....	.....	.....	.....	.....	.....	.....	
Total ...	32,766	24,781	24,982	33,275	26,500	28,500	31,000	
Total Irrigation and Navigation Works	6,23,784	6,11,792	5,49,352	5,27,662	6,10,000	5,16,200	5,61,700	
Agricultural Works.								
Works for which only Revenue accounts are kept—								
Magra Hât Drainage Project...	93	932	3,551	2,420	7,000	4,000	6,000	
Works for which neither Capital nor Revenue accounts are kept—								
Government embankments	31,917	13,791	6,868	17,618	11,500	13,000	13,000	
Takavi embankments under	4,705	98,221	19,597	15,990	21,500	16,800	12,800	

Total in charge of the Public Works Department ...	6,60,499	6,52,852	5,79,908	5,63,620	6,50,000	5,50,000	6,00,000	
GRAND TOTAL ...	7,79,187	7,59,999	6,81,613	6,65,520	7,57,000	6,59,000	7,04,000	
Provincial Share	7,79,187	7,59,999	6,81,613	6,65,520	7,57,000	6,59,000	3,52,000	This wholly Provincial head will be divided with effect from 1911-12.

XXXII.—Civil Works—

IN CHARGE OF THE CIVIL DEPARTMENT.								
Tolls on ferries	1,72,932	1,67,800	1,73,776	1,63,199	1,70,000	1,60,000	1,60,000	
Cemetery receipts	1,845	1,421	2,550	1,803	3,000	2,000	2,000	
Receipts from staging bungalows and encamping grounds ...	6,457	7,651	6,855	8,764	7,000	8,000	8,000	
Miscellaneous	.....	.....	3	.....	.....	.....	.....	
Total in charge of the Civil Department	1,81,234	1,76,872	1,83,184	1,73,766	1,80,000	1,70,000	1,70,000	
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.								
Total gross receipts ...	3,19,625	3,41,459	3,48,202	2,55,110	3,55,000	4,00,000	7,14,000	Budget includes Rs. 3,63,742 on account of the first instalment of the sale-proceeds of the Sibpur Civil Engineering College. Revised includes the Government share of the profits of the Darjeeling-Himalyan Railway for two years, as no credit was received in 1909-10 on this account.
GRAND TOTAL ...	5,00,859	5,18,331	5,31,386	4,28,876	5,35,000	5,70,000	8,84,000	

Contributions—

Bengal	4,98,935	1,01,859	.....	.....	.....	.....	.....	This head ceased to exist when the District Funds and District Road Funds were made "Excluded Local Funds."

[Except where otherwise specially explained, refer to difference between columns 6 and 8.]

1.—Refunds and Drawbacks—

Heads.	1906-07. Actuals.	1907-08. Actuals.	1908-09. Actuals.	1909-10 Actuals.	1910-11. Sanctioned estimate.	1910-11. Revised estimate.	1911-12. Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
	Rs.	Rs	Rs.	Rs.	Rs.	Rs.	Rs	
Land Revenue	17 565	28,397	18,193	23,149	19,000	24,000	19,000	Budget based on the average actuals of the past three years omitting special payments. The Provincial share of the charges of the Excise Department has been raised from ⅓ to ½, while those under Forests has been made wholly Provincial under the new settlement.
Stamps	72 478	75,909	82,892	85,811	83,000	87,000	85,000	
Excise	5,015	19,125	11,670	9,995	11,000	7,000	15,000	
Assessed Taxes	9,013	10,460	8,375	9,074	9,000	9,000	9,000	
Forest	722	1,021	1,684	1,729	1,000	2,000	4,000	
Provincial Rates	9,433	12,666	5,711	11,168	9,000	18,000	11,000	
Registration	2,352	3,717	2,807	2,579	3,000	3,000	3,000	
Total ...	1,16,578	1,51,195	1,31,332	1,43,506	1,35,000	1,50,000	1,46,000	Revised based on the actuals of the first nine months.

2.—Assignments and Compensations—

Pension in lieu of resumed lands	1,411	1,465	1,312	1,618	2 000	4,000	2,000	
Malikana	67,569	61,365	65,298	63,347	67,500	64,000	64,000	
Excise Compensation ...	345	200	297	397	700	1,000	1,000	
For rounding ...	... ...	.....	... ..	.....	—200	.. .	.. ...	
Total ..	69,326	63,020	66,907	65,362	70,000	69,000	67,000	Revised based on the actuals of the first nine months.

3.—Land Revenue—

Charges of District Administration—								
General Establishment ...	22,21,444	23,76,163	24,49,796	24,13,238	25,33,000	24,12,000	28,01,000	Budget includes provision for 10 additional Joint Magistrates sanctioned by the Secretary of State, and Rs. 61,850 for additional Deputy Magistrates and Sub-Deputy Collectors required for the

Process-serving Establishment	1,49,341	1,51,671	1,53,789	1,44,851	1,27,000	1,08,000	.....	Included under General Establishment.
Record-room (or copy-making) Establishment ...	46,180	37,438	28,408	23,886	26,000	23,000	24,000	
Survey of waste lands ...	2,557	149	.....		6,000	.....	6,000	
Management of Private Estates under Act X of 1892	35,528	29,605	33,839	36,607	40,500	37,000	43,000	Budget based on probable requirements.
Lump provision for increase of pay of Ministerial Establishment	.....	.....	.....	... .	1,50,000	1,25,000	.....	Included under General Establishment.
Bonus	.....	.....	17,020		.	.....	...	
					29,77,500	28,00,000	30,10,000	
Deduct—Probable savings	.....	.....	.....	—424	—500	... ..	.....	
Total ...	25,80,326	26,77,176	27,39,529	27,17,105	29,77,000	28,00,000	30,10,000	
harges on account of Land Revenue collections ...	1,431	1,542	1,434	2,867	4,000	3,000	4,000	
anagement of Government Estates—								
Collection of revenue ...	2,29,981	2,62,610	2,86,623	2,42,130	2,53,000	2,34,000	2,47,000	Estimate based on actual requirements.
Outlay on improvements ...	2,27,480	2,76,922	1,15,404	1,99,101	1,96,000	1,93,000	2,03,000	Estimate based on the percentage grant with provision for non-recurring improvements and also for the payment of Road and Public Works Cesses on Government Estates.
Bonus	.....	.....	1,692	—86	.....	.....	.....	
Total ...	4,57,461	5,39,532	4,03,719	3,51,145	4,29,000	4,27,000	4,50,000	
urvey and Settlement—								
Controlling Office (survey) ...	5,896	5,772	3,533	3,862	.....	4,000	.....	
Other survey operations—								
Bengal Drawing Office ...	63,975	26,425	30,376	41,363	43,959	53,000	65,879	
Other operations ...	72,808	17,282	22,305	36,653	50,904	53,000	82,464	
Minor settlement operations	1,16,617	1,03,719	57,423	66,397	30,000	30,000	30,000	
Other ditto ...	1,43,772	75,760	1,29,416	1,06,630	28,923	29,000	11,150	
Refund to Imperial on account of the survey and settlement of Government and temporary estates ...	. ....	... ..	.....	.....	6,000	6,000	30,000	
Bonus ...	. ....	.	67	—38	.....	.....	..	
					1,59,786		1,69,483	
For rounding ...					+214		—483	
Total ...	4,08,067	2,28,948	2,43,120	2,54,867	1,60,000	1,76,000	1,69,000	Budget based on actual requirements.

5.—Land Revenue—concluded.

Heads.	1906-07.	1907-08.	1908-09	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Land Records—								
Superintendence ...	36,872	36,918	37,569	41,335	26,000	37,000	30,000	
District charges ...	47,743	2,34,207	2,84,162	3,57,117	4,44,000	4,18,000	4,41,000	Budget includes Rs. 3,27,000 for the revision of the survey and settlement records and Rs. 59,000 for the maintenance of the record-of-rights in Orissa.
Land Registration charges ...	.....	...	...	.....	16,000		16,000	
Bonus ...	.....	.....	628	—3	.....	.....	.....	
Total ...	84,615	2,71,125	3,22,359	3,98,449	4,86,000	4,55,000	4,87,000	
Lump deduction as probable savings					40,56,000 70,000		41,20,000 50,000	
Grand Total ...	35,26,900	37,18,322	37,10,161	37,24,433	39,86,000	38,60,000	40,70,000	

6.—Stamps—

Superintendence—								
Presidency Executive Establishment	.....	.....	.....	.....	.....	.....	.....	
District Establishment ...	10,473	9,101	26,798	26,130	29,000	25,000	27,000	Budget based on probable requirements.
Total ...	10,473	9,101	26,798	26,130	29,000	25,000	27,000	
Charges for the sale of general								

...	3,103	3,350	3,810	3,738	4,500	5,000	5,000	
Discount on sale of other general stamps ...	1,12,734	1,15,116	1,16,398	1,07,687	1,19,500	1,00,000	1,07,000	
Total ...	1,18,112	1,20,466	1,20,508	1,11,420	1,24,000	1,05,000	1,12,000	
Charges on sale of court-fee stamps—								
Discount on sale of adhesive stamps	66,879	67,855	70,610	74,164	75,000		77,500	
Discount on sale of stamps for copies	7,123	6,211	5,660	6,262	6,000		6,500	
Establishment for sale of stamps	1,611	2,662	1,297	1,380	1,464		1,284	
For rounding ...					—464		—284	
Total ...	75,613	76,728	77,567	81,806	82,000	89,000	85,000	
Discount on plain paper ...	11,832	11,830	11,877	12,834	12,000	13,000	14,000	
Stamp paper supplied from Central Stores	1,91,990	1,91,829	2,25,639	1,99,774	2,57,000	2,00,000	2,00,000	Estimate furnished by the Controller of Stamps and Stationery.
GRAND TOTAL ...	4,08,020	4,09,954	4,62,389	4,31,964	5,04,000	4,32,000	4,38,000	Revised based on the actuals of the first nine months.
Provincial share	2,04,010	2,04,977	2,31,194	2,15,982	2,52,000	2,16,000	2,19,000	

7.—*Excise*—

Superintendence	85,184	83,823	84,347	95,554	93,000	90,000	96,000	Budget includes a larger grant for travelling allowance and rewards.
Presidency Establishment—								
Calcutta Collectorate (office)	63,118	61,168	40,680	40,433	41,268	41,000	42,024	
Inspection and Prevention ...	22,782	25,280	22,266	20,248	21,744	22,200	21,744	
Allowances and contingencies	21,145	23,283	24,611	22,842	24,181	21,800	21,967	
For rounding ...					87,193 —193		85,735 +265	
Total ...	1,07,045	1,08,731	86,557	83,523	87,000	85,000	86,000	

7.—*Excise*—concluded.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
District Executive Establishment—								
Sadar Establishment ...	1,10,267	1,10,466	1,11,640	1,17,571	1,16,970	1,32,000	1,76,520	Budget includes a lump provision of Rs. 50,000 for the reorganization of the Excise Department with which it is contemplated to amalgamate the Salt Department, and increased provision on account of the revision of the salaries of ministerial officers.
Inspection and prevention	1,90,302	1,93,235	2,03,624	2,12,508	2,27,724	2,48,000	2,58,102	Budget includes larger provision for both permanent and temporary establishments with reference to requirements.
Allowances, etc. ...	1,22,891	1,42,246	1,60,279	1,65,394	1,51,600	1,56,000	1,67,019	Larger provision has been made for travelling allowance, as the result of the increase in establishments.
Bonus	.....	.....	2,947	—68	.....	...	.....	
Probable savings ...					4,96,294 —1,294		6,01,641 —1,641	
Total ...	4,23,460	4,46,947	4,78,490	4,95,405	4,95,000	5,36,000	6,00,000	
Distilleries—								
Presidency establishment ...	10,650	11,560	11,885	13,522	13,000	12,000	13,000	
District establishment ...	1,16,781	1,32,988	1,23,586	1,83,324	1,95,000	1,77,000	1,56,000	Budget for 1910-11 included a lump provision of Rs. 15,000 for the increase of pay of ministerial officers, which has been provided for under District Executive Establishment in 1911-12. Rupees 10,000 has been provided for petty construction against Rs. 20,000 so provided in 1910-11.
Bonus	.....	.....	372	.....	.....	... ..	.....	
Grand Total ...	7,43,120	7,73,049	7,86,537	8,71,328	8,83,000	9,00,000	9,50,000	

llection of rates and cesses...	1,56,811	1,19,052	1,26,370	1,17,738	1,71,000	1,52,000	1,56,000
luation and re-valuation ...	91,136	80,323	30,395	31,467	42,000	31,000	99,000
nus	.....	.....	.....	61	.....	.....	.....
Total ...	2,47,947	1,99,375	1,56,765	1,49,266	2,13,000	1,83,000	2,55,000
duct—							
Proportion debitable to Local for cost of road-cess collection ...	1,65,468	1,46,504	1,09,452	99,831	1,14,000	1,22,000	1,04,000
Proportion debitable to Local for re-valuation					28,000		66,000
One-third share of recoveries on account of collection of arrear cesses	19,321	1,092	589	289	1,000	1,000	100
Contribution for pension of the cess-collecting establishment ...	6,874	6,497	6,039	6,767	7,000	8,000	6,900
dd—Grant to District Road Funds as Government share of the cost of collecting Public Works Cess and re-valuation charges	.....	.....	1,344	.....	1,000	1,000	1,000
Total	55,784	46,282	41,429	42,379	64,000	53,000	79,000

Budget provides for the re-valuation charges of the districts of Midnapore, 24-Parganas, Nadia, Jessore, South Monghyr, Purnea, Ranchi and Hazaribagh.

0.—*Assessed Taxes*—

alcutta Establishment ...	86,907	85,050	83,635	88,971	91,000	89,500	94,000
District ditto ...	63,323	68,011	69,686	66,744	72,000	66,500	69,000
Bonus	.....	.....	682	.....	.....	.....	.....
Total ...	1,50,230	1,53,061	1,60,003	1,55,715	1,63,000	1,56,000	1,63,000
Provincial share ...	75,115	76,530	80,002	77,858	82,000	78,000	81,000

Budget includes Rs. 5,362 for the reorganization of the clerical establishment of the office of the Collector of Income Tax, Calcutta.

11.—*Forests*—

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
A.—Conservancy and Works.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
I.—Timber and other produce removed from the forests by Government agency ...	28,589	16,672	8,072	8,276	7,200	18,700	18,000	Both the revised and the Budget include provision for the working of timber through departmental agency in Angul.
II.—Timber and other produce removed from the forests by consumers and purchasers	91,985	96,646	94,775	1,07,101	1,00,000	1,00,000	1,07,000	
III.—Confiscated drift and waif wood ..	620	1,742	804	639	1,300	300	800	
V.—Rent of leased forests, and payment to shareholders in forests managed by Government	27,030	5,300	5,227	.....	20,000	20,000	25,000	This is for payment to the Raja of Porahat on account of the net profits of the Porahat forests.
VI.—Live-stock, stores, tools and plant ...	14,529	26,079	41,353	15,656	15,000	21,000	45,000	Budget includes provision for the construction of steam-cutters and range boats for the Sundarbans Division.
VII.—Communications and buildings ...	75,116	70,795	64,347	69,330	98,800	95,500	98,500	
VIII.—Demarcation, improvement and extension of forests ...	82,645	1,71,109	70,717	44,831	54,100	45,000	42,900	
IX.—Miscellaneous ...	7,426	4,322	4,089	7,391	5,600	5,500	5,800	
Total A.—Conservancy and Works	3,27,940	3,95,605	2,79,384	2,53,224	3,02,000	3,06,000	3,43,000	
B.—Establishment.								
I.—Salaries	2,43,241	2,46,749	2,33,092	2,67,262	2,93,200	2,83,000	3,28,200	Budget includes (*a*) charges for the Agency Forest Officer for the Orissa Feudatory States, (*b*) for the reorganization of the services of Extra Deputy Conservators and Extra Assistant Conservators, and (*c*) for the reorganization of the Subordinate Forest Service.
II — Allowances ...	48,836	60,709	61,094	57,331	57,000	58,000	49,500	No provision made for grain compensation allowance.
III.—Contingencies ...	12,472	10,331	10,411	13,282	12,800	16,000	13,300	
Total B —Establishment ...	3,04,549	3,17,789	3,04,597	3,37,875	3,63,000	3,57,000	3,91,000	
Total A and B ...	6,32,489	7,13,394	5,83,981	5,91,099	6,65,000	6,63,000	7,34,000	

uperintendence ... • ...	48,863	47,180	51,638	52,132	51,500	48,000	57,000	Budget includes Rs. 6,000 for the reorganization of the establishment of the Inspector-General's office, against Rs. 3,000 provided in 1910-11.
istrict Charges—								
Calcutta	30,644	30,923	30,256	30,820	30,000	30,000	30,000	
District Sub-Registrars ...	1,60,305	2,50,937	2,01,918	1,79,540	1,57,500	1,78,000	1,70,500	Provision for the contract contingencies of Sub-Registrars has been made here instead of under Sub-Registrars.
Sub-Registrars	4,01,003	4,21,880	5,24,730	5,12,771	5,71,500	5,20,000	5,35,000	
Ex-officio Sub-Registrars ...	1,872	1 233	2,907	1,228	2,500	1,000	1,500	
Bonus	.....	.....	3,528	2,140	... ..	.....	.. ...	
Total District Charges ...	5,93,824	7,04,973	7,63,339	7,26,502	7,61,500	7,29,000	7,37,000	
GRAND TOTAL ...	6,42,687	7,52,153	8,14,977	7,78,634	8,13,000	7,77,000	7,94,000	Revised based on the actuals of the first nine months. Savings are expected under grain compensation allowance, establishment and contingencies.

5.—*Interest on Ordinary Debt*—

erest on Provincial Advance nd Loan Account ...	2,36,226	3,02,281	4,92,409	6,27,775	5,68,000	5,57,000	4,78,000	Both the revised and the Budget are based on the estimated mean outstanding balance of loans.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Salary of Lieutenant-Governor	1,01,341	96,116	96,663	96,000	96,000	96,000	96,000	
Staff and household of Lieutenant-Governor	1,19,844	1,29,591	1,16,508	1,17,590	1,09,000	1,20,000	1,19,000	Budget includes a provision of Rs. 11,260 for anticipated savings in the grants for the maintenance of furniture for 1910-11 to be regranted in 1911-12.
Delhi Coronation Durbar ...	.....	.....	.....	.....	.....	.....	3,00,000	
Tour and establishment grant of Lieutenant-Governor ...	50,000	59,182	68,107	48,076	50,000	50,000	50,000	
Tour expenses	1,927	4,128	761	470	2,000	2,000	1,000	
Legislative Department ...	76,693	80,273	96,262	1,01,595	1,22,000	1,28,000	1,37,000	Budget includes larger provision for the travelling allowance of the non-official Members of Council.
Civil Secretariat	6,13,470	6,38,266	6,30,509	6,34,233	6,66,000	6,65,000	6,72,000	Budget includes provision for the salary of the Personal Assistant to the Legal Remembrancer, who is also Personal Assistant to the Secretary to Government in the Judicial Department.
Executive Council ...	.....	.....	.....	.....	2,00,000	55,000	2,00,000	
Board of Revenue	3,13,933	3,08,647	3,14,891	2,96,858	2,48,000	2,75,000	2,45,000	The increase in the revised is due to the retention of two Members (in place of one provided in the Budget) up to the date of the formation of the Executive Council.
Commissioners	5,13,084	4,73,721	4,93,535	5,12,885	5,07,000	5,20,000	5,07,000	Revised includes provision for the payment of the salaries of ministerial officers at increased rates with retrospective effect from the 23rd May 1909.
Civil offices of Account and Audit	47,845	83,618	89,558	94,185	96,000	95,000	97,000	

High Court—								
Judges	7,15,119	7,17,432	7,50,808	7,19,779	7,53,000	7,48,000	7,53,000	
Original Side	2,73,431	2,73,333	2,78,408	2,94,442	3,12,000	3,05,000	3,43,000	Budget includes Rs. 23,797 for the reorganization of the establishment of the Original Side of the High Court, and Rs. 3,000 for fees to the Clerk of the Crown for attending the Special Tribunal.
Appellate Side	2,78,963	2,91,116	3,00,795	3,07,859	3,17,000	3,06,000	3,14,000	
Copyists' Establishment ...	51,768	43,414	41,903	48,066	46,000	50,000	49,000	Budget includes a larger grant for copying special appeals and pleadings due to increase in the criminal work of the Court.
Reporters	24,972	26,185	24,893	24,888	25,000	25,000	25,000	
Bonus	.....	.....	1,531	6	.....	.....	.....	
Total ...	13,44,253	13,51,469	13,98,337	13,95,040	14,53,000	14,34,000	14,84,000	
Law Officers—								
English Law Officers ...	93,658	1,41,765	1,29,390	1,21,111	1,33,000	1,34,000	1,33,000	
Legal Remembrancer and High Court Pleaders ...	89,777	1,28,541	2,61,029	3,95,481	1,52,000	7,20,000	5,14,000	The increase in the revised is due to larger grants for fees to pleaders and Counsel. Budget also includes an increased provision on this account.
Mufassal Establishment ...	2,21,200	1,85,115	6,42,432	3,58,817	2,25,000	3,74,000	3,04,000	The increase in the revised is on account of fees to pleaders in connection with the prosecution of political cases, etc. Budget includes Rs. 50,000 for the grant of enhanced retaining fees to Government Pleaders and Public Prosecutors.
Bonus	.....	.....	116	—23	.....	.....	.....	
Total ...	4,04,635	4,55,421	10,32,907	8,75,386	5,10,000	12,28,000	9,51,000	
Coroner's Court	7,839	7,565	7,797	7,888	8,000	8,000	8,000	
Presidency Magistrates—								
Calcutta Police Court ...	1,07,908	1,18,015	1,15,721	1,20,947	1,11,000	1,43,000	1,27,000	Budget includes provision for the Fifth Presidency Magistrate and a larger grant on account of the charges of mufassil witnesses attending the High Court; also for fees to pleaders for the defence of paupers in murder cases. Revised includes a larger grant for the charges for mufassil witnesses attending the High Court and for fees to Counsel.
Municipal Magistrates ...	647	6,513			8,000	8,000	8,000	

19A.—*Courts of Law*—conold.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
Civil and Sessions Courts—	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
District and Sessions Judges...	8,65,128	8,61,121	8,60,510	8,99,974	9,30,744	9,40,000	9,52,140	Budget includes provision for 2 1st-grade and 9 2nd-grade Judges in place of 1 1st-grade and 10 2nd-grade officers in 1910 11, and for the increase of the pay of ministerial officers recommended by the Ministerial Officers' Salaries Committee.
Subordinate Judges ...	4,41,962	4,83,972	4,33,449	4,18,210	4,24,690	4,21,000	4,34,422	Budget includes provision for temporary Judges for 18 months and for the increase of pay of ministerial officers.
Mufassal Small Cause Courts	18,184	17,238	16,420	16,451	12,864	16,000	19,364	
Munsifs	10,28,165	10,26,466	10,42,673	10,04,441	10,14,608	9,99,000	10,74,408	Budget includes provision for the increase of pay of ministerial officers separately provided for in 1910-11.
Allowances	93,965	1,23,722	98,033	69,449	63,800	28,000	35,466	No provision has been made for grain compensation allowance.
Supplies and Services ...	2,76,985	2,96,791	3,16,960	3,48,503	3,24,295	3,15,000	3,19,382	Budget for 1910-11 included Rs. 10,000 for the purchase of buckets and fire-extinguishing appliances for Civil Courts.
Contingencies	91,775	95,755	1,06,157	1,17,247	1,15,997	1,00,000	1,16,343	
Process-serving Establishment	4,54,542	4,73,500	5,08,417	4,86,573	4,76,314	4,51,000	5,06,352	Budget includes provision for the increase of pay of nazirs and naib-nazirs as recommended by the Ministerial Officers' Salaries Committee.
Lump provision for the increase of the pay of ministerial officers	.....	.....	... ..	.....	1,50,000	1,30,000	45,000	Budget provides for the arrears of 1909-10 and 1910-11 to be drawn in 1911-12.
Bonus	.....	.....	17,789	(—)329	.....	.....	.....	
Deduct—Probable savings ...	.....	.....	.....	.....	(—)6,112	.....	(—)877	
Total ...	32,70,706	33,28,565	33,99,408	33,60,519	35,07,000	34,00,000	34,98,000	
Presidency Court of Small Causes	1,71,625	1,58,623	1,68,747	1,66,942	1,72 000	1,68,000	1,72,000	
Criminal Courts—								
General establishment ...	18,26,486	18,50,339	19,63,055	19,89,223	20,14,000	20,12,000	22,57,000	Budget represents a moiety of the salaries of Magistrates and Collectors and of Deputy Magistrates, and Sub-Deputy Collectors, as well as ½ share of the establishment, supplies and services, and contingencies of both Magistrates' and Collectors' offices.
Subdivisional establishment ...	1,08,252	1,13,627	1,17,695	1,16,797	1,12,000	1,12,000	1,53,000	
Process-serving establishment	99,560	1,01,114	1,02,526	96,568	1,27,000	1,08,000	.....	Included under general establishment.
Tributary Mahals, Orissa ...	1,472	1,815	1,230	784	.....	1,000	... ...	
Lump provision for the increase of the pay of ministerial officers	.....	.....	.....	.....	1,50,000	1,15,000	.....	Included under general and subdivisional establishments.
Bonus	.....	.....	2,556	(—)74	.....	.....	.. ...	
Total ...	20,35,720	20,66,895	21,87,062	22,03,368	24,03,000	23,48,000	24,10,000	
Pleadership Examination charges	13,238	13,098	15,363	15,712	18,000	16,000	16,000	Based on average Actuals.
Refunds	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	

Superintendence	57,840	59,887	59,300	50,629	58,000	57,000	60,000	The increase is due to the revision of establishment.
Establishments—								
Superintendents and Jailors ...	1,89,553	1,86,628	2,03,963	2,37,321	2,31,000	2,54,000	2,64,000	The increase is due to the establishment of the new Central Jail at Kalighat, to the provision of an additional jailor for the Khulna District Jail, and to the grant of a personal allowance to the Superintendent, Juvenile Jail.
Medical establishment ...	30,522	30,760	32,554	26,723	31,000	34,000	37,000	The increase is the result of the establishment of the new Central Jail at Kalighat, the enhancement of the pay of Sub-Assistant Surgeons, the appointment of a whole-time Sub-Assistant Surgeon for the Khulna Jail, and for rewards to Sub-Assistant Surgeons at increased rates.
Clerical, educational and mechanical establishments	220	456	344	5,644	19,000	15,000	24,000	Budget includes provision for the pay of 10 clerks for employment in 1st class district jails.
Warder establishment ...	1,64,290	1,68,366	1,92,657	2,24,356	2,28,000	2,52,000	2,57,000	Budget includes provision for extra guards in the Presidency Jail and in the Alipore and Buxar Central Jails, and for the establishment of the new Central Jail at Kalighat.
Menial and other establishments	10,322	10,479	9,144	8,271	6,000	7,000	4,000	
Dietary charges	7,56,490	7,82,701	8,45,741	6,81,689	7,55,000	6,01,000	6,47,000	Reduction due to the fall in the price of food-grains.
Hospital charges	67,698	72,444	75,142	83,320	80,000	77,000	87,000	
Clothing and bedding of prisoners	54,991	76,455	85,577	1,30,702	85,000	85,000	91,000	Budget includes provision for the charges of the new Central Jail at Kalighat.
Sanitation charges	28,290	36,529	36,650	36,506	37,000	36,000	41,000	
Charges for moving prisoners ...	44,336	38,814	50,337	49,817	50,000	46,000	53,000	
Miscellaneous services and supplies.	1,06,134	87,186	1,12,129	1,19,625	1,15,000	1,36,000	1,53,000	Budget includes provision for the new Central Jail at Kalighat and for electric lights in the Alipore Central Jail, as well as new lights in the Presidency Jail.
Allowances	27,606	37,876	39,217	30,014	21,000	11,000	12,000	No provision has been made for grain compensation allowance.
Contingent charges ...	34,091	36,394	43,313	53,676	55,000	62,000	67,000	Includes provision for the new Central Jail at Kalighat.
Extraordinary charges for live-stock and tools and plant ...	41,780	23,186	33,571	32,728	34,000	33,000	33,000	
Charges for police custody ...	13,397	14,905	21,998	18,214	23,000	19,000	19,000	
Bonus	.....	.....	4,369	—83	.....	.....	.....	
Lump provision for the new Presidency Jail	.....		.....	...	1,39,486	.....	.....	Distributed to the several heads concerned.
For rounding ...	.....		.....	...	—486	...	.....	
Total Jail ...	16,27,400	16,63,066	18,45,996	17,89,052	19,66,000	17,28,000	18,49,000	
Jail manufactures	10,36,024	10,33,786	9,24,423	7,40,465	9,06,000	7,29,500	8,60,000	Smaller provision made for the purchase of raw materials with reference to the decrease in the demand for manufactured articles.
Refunds	12	100	4	203	.....	500	.....	
Total ...	26,63,436	26,96,952	27,70,423	25,29,720	28,71,000	24,58,000	27,09,000	

20.—Police.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
Presidency Police—	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Police Commissioner (Superintendence)	68,330	66,995	77,564	84,545	97,000	93,000	1,41,000	Budget includes provision for the appointment of two Deputy Commissioners to replace two Superintendents. It also includes provision for one Deputy Commissioner in connection with the reorganization of the Special Branch of the Calcutta Police and also Rs. 6,720 for the substitution of clerks for executive officers in Divisional Deputy Commissioners' offices.
Calcutta Police	9,74,221	9,91,251	10,24,320	10,70,967	11,26,000	10,90,000	12,13,000	The decrease in the revised is due chiefly to the non-utilization of the provision for grain compensation allowance and to larger savings under Police force. The increase in the Budget is due to the regrading of sub-inspectors and to the appointment of 12 additional sergeants for duty in the High Court; also to the provision of Rs. 20,481 for the reorganization of the Special Branch and to larger grants for rewards and for the hiring of houses for married European Sergeants. Budget includes also Rs. 50,000 for an additional company of Military Police in the vicinity of Calcutta.
Hospital charges ...	22,038	32,970	39,162	36,517	32,000	32,000	36,000	Budget includes provision for the supply of beds to the Police Hospital.
Special Police	51,032	16,007	38,331	36,697	41,000	37,000	37,000	
Cattle pounds	2,330	1,426	2,266	2,193	2,500	2,000	2,300	
River Police	14,624	2,615	34,244	17,696	22,000	15,000	22,000	
Salt Police	449	.....	.....	.....	.....	.....	.....	
Police Dead-house ...	1,352	1,695	1,756	915	1,700	1,000	1,700	
Bonus	.....	.....	9,129	.....	.....	.....	.....	
For rounding ...	.....	.....	.....	.....	—200	.....	.....	
Total ...	11,34,376	11,12,959	12,26,772	12,49,530	13,22,000	12,70,000	14,53,000	
Municipal Police	54,605	65,793	7,410	.....	.....	.....	.....	
Superintendence	2,28,772	2,29,127	3,08,908	2,44,469	2,26,000	2,29,000	2,21,000	The decrease in 1911-12 is due to the transfer of the provision for

Salaries	4,61,750	4,78,864	5,38,400	5,84,613	6,04,000	5,85,000	5,90,000	Budget includes provision for three Probationary Superintendents for four months.
Police Force	30,27,830	31,93,949	33,79,063	34,46,368	36,20,000	35,29,000	35,75,000	Larger deduction made for probable savings in 1911-12 with reference to actuals.
Training Schools	1,47,147	1,27,283	1,37,290	1,29,324	1,36,000	1,33,000	1,38,000	
Establishment	1,08,372	1,09,399	1,11,380	1,48,344	1,40,000	1,62,000	1,73,000	Budget includes provision of Rs. 12,000 for the revision of beat establishment.
Hospital charges	42,451	45,632	50,185	53,177	48,000	58,000	47,000	
Allowances	5,27,688	8,24,968	8,61,780	7,03,662	7,26,000	6,00,000	5,80,000	The decrease in both the revised and the Budget is due chiefly to the omission of provision for grain compensation allowance and to the transfer of the provision for house rent to contingencies.
Supplies and services ...	5,81,444	5,23,948	5,94,772	6,85,368	6,51,000	6,70,000	5,75,000	Smaller provision has been made for the purchase of ordnance stores and boats and under petty construction.
Contingencies	1,72,131	1,78,897	2,00,028	2,16,106	2,53,000	2,40,000	3,09,000	Budget includes Rs. 40,000 for the house rent of sub-inspectors provided for under allowances in 1910-11, and larger grants on account of the rent of thana buildings and the pay of sweepers, etc., transferred from establishment.
Other Police	28,380	26,062	39,917	52,099	16,000	20,000	16,000	
Bonus	.....	... ..	43,953	—1,158	.....	.....	.. ...	
Lump provision for reorganisation	...	.....	.....	.....	28,000	.....	1,69,000	Budget provides for the following :— Rs. Regrading of sub-inspectors ... ... 69,620 One-rupee increments to constables ... ... 27,620 Increase to the cadre in the Burdwan and Presidency Divisions ... ... 60,000 Minor additions to the force in various stations with reference to requirements ... ... 12,110 Total ... 1,69,250
Total ...	50,97,193	55,09,002	59,56,768	60,17,903	63,22,000	59,97,000	61,71,000	

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised. estimate.	Budget. estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Village Police	40,949	41,463	45,073	45,820	45,000	46,000	43,000	Smaller provision has been made for rewards to headmen in the Sonthal Parganas.
Criminal Investigation Department	73,848	1,20,918	1,73,604	2,72,193	3,19,000	3,61,000	3,68,000	The increase in the revised is due to the appointment of special officers and to larger payments of special and local allowances and rewards. Budget includes Rs. 4,180 for the establishment of the Criminal Intelligence Bureau and Rs. 3,850 for local allowances for the officers of the Finger Print Bureau. Provision has also been made for an officer on special duty, and for establishment and house-rent transferred from Superintendence.
Special Police—								
Bengal Military Police ...	55,761	60,955	62,468	62,163	64,000	61,000	63,000	
Sikkim State Police ..	1,800	.....	.....	.....	.....	.....	.....	
Upper Burma Police Depôt ...	4,841	8,987	5,514	5,862	6,000	8,000	6,000	
Bonus	.....	.....	659	—6	.....	.....	.....	
Total ...	62,402	69,942	68,641	68,019	70,000	69,000	69,000	
Railway Police—								
East Indian Railway Police ...	62,542	74,496	89,812	1,00,449	99,000	94,000	1,03,000	Budget includes provision for the completion of the cadre as proposed by the Police Commission.
Eastern System Railway Police	1,18,672	1,29,676	1,00,396	1,07,052	1,10,000	1,08,000	1,08,000	
Bengal and North-Western and Tirhut State Railway Police	13,933	17,363	21,131	21,833	23,000	21,000	23,000	
Bengal-Nagpur Railway ...	17,001	21,539	24,661	25,520	31,000	27,000	34,000	Budget includes provision for a larger number of chaukidars for watch and ward duty.
Cooch Behar Police ...	—578	.....	.....	.....	.....	.....	.....	
Oudh and Rohilkhund Railway Police	.....	8	.....	.....	.....	.....	.....	
Bonus	.....	.....	.....	4	.....	.....	.....	

Cattle-pounds	1,189	—161	1,316	2,823	1,200	1,000	1,700	Budget includes larger provision for petty construction and repairs.
Refunds	537	1,247	1,382	2,650	1,800	3,000	2,300	
GRAND TOTAL ...	69,05,441	73,93,347	80,25,874	81,57,764	84,75,000	83,26,000	85,97,000	

21.—Ports and Pilotage—

Salaries and allowances of officers and men afloat	75,511	85,985	1,10,760	1,12,405	93,000	1,08,000	1,06,000	The increase in the revised is on account of extra crews for Pilot Vessels.
Victualling of officers and men afloat	27,104	25,278	31,350	30,768	33,000	32,000	31,000	
Purchase of marine stores and coal for the building, repairs and outfit of ships and vessels	1,31,077	1,49,993	1,48,452	1,27,547	2,10,000	1,99,000	1,32,000	Provision has been made for normal expenditure based on probable requirements. Budget for 1910-11 included Rs. 67,000 for 2 new boilers for the Government steamer *Guide*.
Purchase and hire of ships and Vessels	9,770	21,542	10,30,794	11,360	20,000	10,000	20,000	The actuals of 1908-09 included the cost of the second pilot steamer *Lady Fraser* Revised represents the cost of towing the State yacht *Rhotas* during His Honour's river tours.
Pilotage and Pilot establishment	7,76,397	7,52,741	7,50,778	7,40,860	7,62,000	7,81,000	7,70,000	The increase in the revised is for larger payments to pilots owing to increased shipping.
Marine establishment ...	1,02,049	1,08,996	1,20,990	1,02,194	1,15,000	1,05,000	1,04,000	Smaller net charges anticipated in the office of the Agent for Government Consignments.
Subsidies to Steam-boat Companies	18,629	15,150	21,600	19,091	20,000	.....	.....	The payment of subsidies has been abolished from the 1st January 1910.
Miscellaneous	24,996	27,938	39,263	25,950	31,000	30,000	29,000	The actuals of 1908-09 included a special payment of Rs. 11,000 to the Orissa Ports Fund to make good a deficit. Budget for 1910-11 included Rs. 2,000 for repairs to leadsmen's quarters.
State Yacht establishment ...	6,059	6,094	5,396	5,816	7,000	6,000	6,400	
Refunds	2,461	2,066	2,733	3,664	2,000	4,000	2,700	Based on the average actuals of past years.
Rounding ...	.....	... ...	... ...	... ...	.....	.....	—100	
Total ...	11,74,053	11,96,783	22,63,056	11,79,569	12,93,000	12,65,000	11,89,000	Revised based on the actuals of the first nine months.

2.—*Education*—

Heads.	1906-07. Actuals.	1907-08. Actuals.	1908-09. Actuals.	1909-10. Actuals.	1910-11. Sanctioned estimate.	1910-11. Revised estimate.	1911-12. Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
University	80,754	93,103	98,469	1,03,100	80,000	92,500	50,000	Budget represents the grant from the Government of India—Rs. 30,000 for Administration and Inspection and Rs. 20,000 for the Law College. The increase in the revised is due to a special grant to meet the deficit in the rents from hostels and messes and for buildings.
On account of Law College ...	.....	.....	.....		3,500	3,500	3,500	This is the grant from Provincial revenues.
Direction	1,20,521	1,23,210	1,13,773	1,15,053	1,17,500	1,19,000	1,18,000	
Inspection—								
Inspectors of European Schools	23,141	31,978	34,666	24,217	21,600	18,000	21,000	
Inspectors of other schools ...	4,41,561	5,95,280	7,30,683	7,53,483	7,91,000	7,34,000	8,16,000	The decrease in the revised is due to savings under salaries and allowances. Budget includes provision of Rs. 68,960 for the regrading of sub-inspectors transferred from District Boards to Government service.
Lump provision for house allowance of Inspecting Officers in Calcutta ...	.....	.....	.....	.....	3,000	.....	3,000	
Inspector of hostels and students' messes ...	.....	.....	1,571	3,401	400	4,000	.....	Provision included under grants-in-aid.
Inspector of Technical School and of Industries ...	.....	.....	.....	2,203	17,000	15,000	20,000	Budget includes Rs. 13,200 for salary and Rs. 6,800 for travelling allowance, contingencies and establishment.
Bonus	.....	.....	3,542	—71	.....	.....	.....	
Total ...	4,64,702	6,27,258	7,70,462	7,83,233	8,33,000	7,71,000	8,60,000	
Government Colleges, General—								
English Colleges—								
Arts Colleges for boys ...	3,77,383	4,45,902	4,76,152	4,51,332	4,70,000	5,18,000	5,32,000	The increase in the revised is under salaries due to the strengthening of the instructing staff. Budget includes provision for further additions to the staff.
Ditto for girls ...	47,786	52,042	42,579	26,210	27,500	26,000	30,000	Budget includes larger grant for boarding charges owing to the increase in the number of boarders.
Eden Hindu Hostel ...	33,169	33,908	33,541	34,418	34,000	33,000	34,700	
For strengthening the staff of Colleges	.....	.....	.....	.....	87,000	.....	60,000	
Oriental Colleges—								
Sanskrit College	48,263	45,926	38,170	39,437	23,000	32,000	33,000	Budget includes Rs. 7,800 for the confirmation of five temporary appointments already sanctioned.
Calcutta Madrasa ...	53,074	52,891	37,293	5,657	.....	6,000	.....	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	15,000	11,158	The increase is due to charges for the new hostel for Muham-

...	.....	.....	.....	.....	.....	.....	4,000	
Expenditure on petty construction and repairs ...	1,360	.....	.....	.....	.....	.....	.....	
Expenditure on furniture and apparatus	28,546	.....	.....	.....	.....	.....	.....	
Bonus	.....	.....	312	.....	.....	.....	.....	
Deduct—Probable savings...	.....	.....	.....	.....	—9,392	.....	—358	
Total ...	5,88,683	6,35,352	6,32,706	5,52,978	6,39,000	6,30,000	7,06,000	
Government Colleges, Professional—								
Law Colleges	3,840	3,433	714	20,212	26,000	21,000	21,700	This is on account of the Law College at Patna.
Civil Engineering College, Sibpur, Howrah ...	2,71,514	3,28,113	3,40,934	3,15,609	3,16,000	2,78,000	2,90,284	The decrease in the revised is under salaries and in the grant for industrial chemistry and physical and chemical laboratories. Budget includes no provision for the Mining Instructor, Motor-driver artisan class and training of artisans, while a smaller grant is made for apparatus and boarding charges.
Mining Instructor in the coal-fields	.....	.....	.....	.....	.....	.....	8,796	
Training Colleges for teachers	3,188	4,464	48,294	60,691	44,000	40,000	45,000	
Bonus	.....	.....	239	.....	.....	.....	.....	
For rounding ...	.....	.....	.....	.....	...	.....	—709	
Total ...	2,78,542	3,36,010	3,89,581	3,96,312	3,84,000	3,45,000	3 63,000	
Government Schools, General.								
District School Committees ...	1,772	1,824	1,850	1,840	1,800	2,000	1,900	
Secondary Schools—								
For Boys—								
High Schools	4,01,991	4,01,116	4,41,393	4 76,146	4,87,000	4,29,000	4,73,000	The decrease is chiefly under salaries.
Middle English Schools ...	89,216	93,163	96,050	93,442	97,600	94,000	94,000	
Middle Vernacular Schools	10,189	23,040	11,800	10,694	11,400	10,000	12,000	
Anticipated expenditure from interest and surplus funds of the Uttarpara Net-grant School	... ...	... ...	... ...	... ...	190	... ...	190	
For Girls—								
High Schools	... ...	... ...	12,844	26,171	24,000	26,000	25,000	
Middle English Schools ...	59,093	61,633	57,604	53,016	54,300	52,000	50,000	
Middle Vernacular Schools	...		32	...	... ...	...	... ...	
Primary Schools—								
For Boys—								
Upper Primary Schools ...	... ...	5,606	4,759	2,771	3,200	2,800	2,800	
Lower Primary Schools ...	... ...	.....	295	.....	.....	... ...	.....	
For subsidizing model Primary Schools ...	4,262	... ...	... ..	.....	26,400	...	.....	The grant for 1910-11 has been distributed to the two sub-heads below.
Upper Primary Schools ...		.....	2,868	10,171	4,700	9,000	16,800	
Lower ,, ,, ...		...	3,709	18,418	11,000	22,000	24,800	

22—*Education*—concld.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate	Budget estimate	
1	2	3	4	5	6	7		9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs	
Primary Schools—*concld.*								
For Girls—								
Circle School grant ...	12,873	14,317	15,454	13,400	16,400	14,700	15,000	
Payment in support of local schools under District Boards	.....	....	5,72,818	5,79,564	5,89,000	5,89,000	5,89,000	
Bonus	.....	.....	3,930	—77	.....	...	.....	
Training of gymnastic masters	.....	.....	.....	.....	3,000	.....	3,000	
Encouragement of Athletic Clubs	.....	.....	.....	.....	2,500	.....	4,500	Estimate based on probable requirements.
Provision for the opening of B and C Classes in certain High Schools	.....	.....	.....	.....	10,000	.....	10,000	
Agriculture classes ...	3,360	.....	.....	.....	.....	.....	....	
Petty construction, furniture and apparatus	10,084	...	.....	.....	.....	...	.....	
For rounding ...	.....	.....	.....	.....	13,41,490 —490	.....	13,21,990 2,990	
Total ...	5,92,829	6,00,698	12,25,107	12,85,566	13,41,000	12,50,000	13,19,000	
Government Schools, Special.								
Training Schools—								
For Masters—								
Normal Schools ...		2,06,332	2,30,214	72,996	81,100	68,000	73,000	The decrease is partly under stipends and partly under rents.
Guru-training Schools ...		1,31,109	3,88,513	4,96,283	4,79,000	4,09,000	3,58,000	The decrease is due to no provision having been made for schools in Sambalpur and the Tributary Mahals in Orissa. No provision has also been made for the construction of guru training schools.
For Mistresses—								
Training School attached to the Kurseong Boarding School		.....	9,673	14,995	13,800	34,000	16,000	Budget based on actual requirements.
Training Schools for females at Bankipore and Calcutta	1,43,358	.....	.....	.....	24,300	.....	24,800	
Allowance for School-masters' wives		.....	.....	1,719	2,500	500	.....	Provided under grants-in-aid.
Zenana education by central gathering		1,445	4,593	5,646	3,500	3,500	3,500	
Female Teachers' house-to-								

								Budget includes Rs. 4,000 on account of the preparation of an artisan edition of the pattern book, and Rs. 4,402 for the establishment of a modelling studio.
Government Art Gallery ...	17,802	8,885	9,004	10,233	10,000	10,000	10,800	
Engineering and Survey Schools	41,773	39,944	35,305	40,628	41,200	42,000	40,000	
Technical and Industrial Schools	10,201	17,826	28,119	43,859	59,000	47,000	54,000	} Larger deduction made for probable savings with reference to actuals.
Commercial Schools ...	.....	1,278	9,488	21,418	32,000	24,000	28,000	
Madrasas	20,649	20,406	36,216	37,020	49,300	47,000	39,000	
Reformatory School ...	83,556	91,529	1,01,034	1,11,374	1,15,500	1,19,000	1,11,000	
Other miscellaneous schools ...	.. ..	4,189	1,079	2,696	14,976	4,000	4,000	Smaller provision made for rations and allowances.
Agricultural classes and agricultural gardens	.....	... ..	5,116	1,570	9,000	2,000	6,000	
Grant for Muhammadan female education in Patna ...	.....	.....	.....	.. ...	2,000	.. ...	2,600	
Grant for Athletic Clubs ...	.....	.....	.. ...	.....	500	.....	500	
Petty construction, furniture and apparatus	53,299	.....	.....	.....	.....	.. ..	.. ..	
Bonus	... ..	.....	2,254	47	.....	.	.....	
Deduct—Probable savings ...	.....	.....	.....	.....	10,05,676 −676	.....	8,28,600 600	
Total ...	3,97,670	5,46,328	8,93,001	9,03,262	10,05,000	8,55,000	8,28,000	
Grants-in-aid	10,60,973	13,33,148	11,18,071	11,31,747	11,80,000	11,70,000	12,50,000	

Budget includes the following grants—	Rs.	Rs.
Imperial grant for Colleges, etc., which will be distributed on the recommendation of the University ...		1,10,000
Do. for European and Eurasian schools		65,000
Fixed grant to—		
St. Xavier's College	5,400	
Bangabasi College ...	5,580	
Scottish Church College ...	22,000	
London Missionary Society College, Bhowanipur	6,600	(including Rs. 3,600 for graduate training class).
Wesleyan Mission College	3,600	
Midnapore College and School ...	5,580	
Bihar National College ...	4,800	
St Columba's College, Hazaribagh	12,000	
Narail Victoria College and School, Jessore	1,860	
Daulatpur Hindu Academy ...	3,000	
		70,280
Grants to—		
Secondary Schools for boys		1,35,000
Primary Schools for boys ...		10,000
Training Schools		14,000
Technical Schools		6,000
Madrasas and other miscellaneous Schools	—	19,000
Girls' Schools...		1,32,000

22.—*Education*—concluded.

Heads.	1906-07. Actuals.	1907-08. Actuals	1908 09. Actuals.	1909-10. Actuals.	1910-11. Sanctioned estimate.	1910-11. Revised estimate.	1911-12. Budget estimate.	Remarks.
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs	Rs.	Rs.	Rs.	
Scholarships	1,55,310	1,71,211	1,86,054	1,86,661	2,00,000	1,81,000	2,00,000	
Miscellaneous	1,06,547	83,293	98,696	1,05,670	1,31,000	1,31,000	1,26,000	No provision has been made for the preparation of text-books for Vernacular schools and Science text-books, while provision has been made for the new scale of allowance for the Superintendents and the Assistant Superintendents of hostels and messes.
Lump provision for non-recurring expenditure	.....	.....	.....	.....	.....	.....	12,00,000	This amount will be distributed on receipt of the orders of the Government of India as to the conditions (if any) governing the grant.
Refunds	4,318	3,081	2,806	5,241	3,000	5,000	4,000	
Lump deduction as probable savings	.....	.....	.....	.....	.....	.....	70,26,500 —500	
Total ...	88,50,749	45,52,592	55,28,726	55,68,813	59,17,000	55,53,000	70,26,000	

Rs.

European Boys' Schools	...	...	1,72,000
Ditto Girls' Schools	...	..	1,12,000
Primary Schools ..	...	...	1,91,000
European and Eurasian Cadets	...	...	8,000
Buildings and furniture	...	...	75,000
University for Calcutta Messes	...		12,000
Hostels	...	...	10,000
Maktabs	..	...	45,000
Other grants ...	..	...	62,720
Total		...	12,50,000

24.—*Medical*—

Medical Establishment—								
Superintendence ...	71,002	69,416	68,793	75,101	75,000	71,000	78,000	
District Medical establishment	4,97,071	4,96,683	4,80,952	4,80,141	5,66,000	4,82,000	5,44,000	The decrease in the revised is due to savings under salaries and the non-utilization of the provision for the improvement of the pay of Assistant Surgeons. Budget includes a lump sum of Rs. 41,000 on this latter account, Rs. 5,000 for commission to clerks in

Subordinates	17,427	11,809	16,891	10,143	18,000	11,000	13,000
Bonus	.....	.....	823	18	.....	.....	... ..
Total ..	5,85,500	5,76,908	5,66,459	5,65,403	6,58,000	5,64,000	6,35,000	
Hospitals and Dispensaries—							
Presidency Hospitals and Dispensaries—							
Medical College Hospital ...	2,11,519	2,41,498	2,72,557	2,70,908	3,46,000	3,34,000	3,60,000	Budget includes larger provisions for the maintenance of electric plant and for rates and taxes; while no provision has been made for the equipment of the Surgical block, for which Rs. 60,675 was included in 1910-11.
General Hospital ...	2,25,131	2,16,924	2,24,496	2,45,824	2,52,000	2,42,000	2,54,000	
Campbell Hospital ...	92,900	93,221	1,06,233	1,24,070	1,30,000	1,05,000	1,22,000	The decrease both in the revised and the Budget is due to smaller expenditure under Supplies and Services.
Albert Victor Asylum for Lepers	22,027	23,812	29,843	29,861	32,000	30,000	35,000	
Mufassal Hospitals and Dispensaries ...	56,132	68,390	82,207	76,417	67,000	71,000	73,000	The increase is due to the increase of the pay of Sub-Assistant Surgeons sanctioned by the Government of India.
Grants to Mufassal Hospitals and Dispensaries ...	1,62,678	1,41,793	1,27,715	1,36,591	1,21,500	1,40,000	1,19,000	The Budget for 1910-11 included Rs. 12,000 for the construction of dispensary buildings at Asansol and Rajmahal, and hence the increase in that year. Revised includes special grants to the Burdwan and other hospitals. Budget for 1911-12 includes Rs. 12,500 for grant to Lowis Jubilee Sanitarium, Darjeeling.
Medical charges in connection with the Inland Labour Transport Fund ...	.....	... .	205	486	1,500	1,000	1,000	
Bonus	.....	...	2,041	24	.. ...	.....	... ..	
Total ...	7,70,387	7,86,637	8,44,296	8,84,181	9,50,000	9,23,000	9,54,000	
Sanitation and Vaccination ...	2,32,062	2,32,797	2,51,854	2,50,994	2,33,000	2,51,000	2,61,000	The increase in the revised is due to charges for relief in malaria stricken areas. Budget includes Rs. 14,400 for officers in connection with anti-malarial measures, Rs. 3,600 for analysts for the analysis of water in the Sanitary Commissioner's laboratory, provision for the revision of the establishment of the Sanitary Commissioner's office, a larger grant for travelling allowance and for malarial work.
Grants for Medical purposes—							
Expenses during the prevalence of plague ...	81,724	88,347	64,326	1 33,328	48,500		35,000	Budget based on actuals.
Expenses during the prevalence of epidemics ...	2,206	365	—629	—1,677	1,000		1,500	

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs	Rs.	Rs.	Rs.	
Value of Medical Stores ...	330	330	453	330	500		500	
Exchange compensation allowances	204	426	262	73	.....		.....	
Bonus	.....	.....	57	.....	.....		.....	
Total Grants for Medical purposes	84,464	89,368	64,569	32,054	50,000	40,000	37,000	
Medical Schools and Colleges— Medical Colleges ...	2,22,712	2,21,904	2,53,462	2,74,333	3,70,000	2,54,000	2,77,000	The decrease in the revised is due to savings under Salaries. Budget includes provision for the full sanctioned scale of pay of officers (including one additional Professor of Anatomy), larger grant for scholarships, models, etc.
Medical Schools ...	1,18,376	1,29,144	1,23,247	1,16,089	1,26,000	1,19,000	1,30,000	The decrease in the revised is under Supplies and Services. Budget includes a larger grant for rents, rates and taxes on account of the increased assessment of the Campbell School buildings and the latrine tax of the Patna School.
Bonus	.....	.....	319	.....	.....	.....	.....	
Total ...	3,41,087	3,51,048	3,77,028	3,90,412	3,96,000	3,73,000	4,07,000	
Lunatic Asylum	1,31,771	1,47,751	1,54,280	1,49,630	1,58,000	1,52,000	1,60,000	Budget includes provision for the revision of the warder staff.
Special Hospital	11,143	11,671	11,805	10,784	12,500	11,000	12,000	
Chemical Examiner ...	38,312	45,303	55,798	48,269	57,500	50,000	64,000	Budget includes provision for the special allowances sanctioned for Assistant Chemical Examiners and for the Assistant teacher of Chemistry at the Medical College.
Refunds	2,037	1,296	1,946	6,421	1,000	10,000	6,000	
Lump deduction for probable savings	.....	.....	.....	.....	.....	.....	—23,000	
Total ...	21,96,753	22,41,779	23,28,035	23,38,148	25,16,000	23,74,000	25,13,000	
6.—Political—								
Political Agents	29,971	35,265	35,295	36,259	42,000	39,000	42,000	The saving in the revised is due to the non-utilization of the provision for the purchase of an elephant.
Entertainment of Envoys and Chiefs	.....	.....	.....	.....	100	.....	500	
Durbar presents and allowances to Vakils, etc.	6,519	4,585	16,928	10,393	9,800	17,000	15,800	The increase in the revised is the result of larger expenditure on Durbar presents. An increased provision has also been made for 1911-12 on account of the Coronation
Miscellaneous	4,758	7,233	181	5,291	7,100	7,000	6,000	
For rounding ...	.....	.....	.....	.....	.....	.....	—300	

	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Veterinary and stallion charges	1,16,412	1,66,750	1,69,095	1,70,428	2,04,000	1,74,000	2,15,000	Budget includes larger provision for the subordinate veterinary establishment of inspectors and veterinary assistants under the reorganization scheme. The saving in the revised is due to smaller expenditure under contributions to veterinary hospitals and dispensaries and under Supplies and Services and contingencies of the office of the Superintendent, Civil Veterinary Department.
Donations to Scientific Societies	36,000	10,870	11,855	11,855	11,600	12,000	11,600	
Experimental cultivation ...	3,24,682	3,38,173	3,77,003	3,66,268	3,89,000	3,52,000	4,03,500	The decrease in the revised is due to smaller expenditure on the Agricultural College and experimental stations. Budget includes larger grant for assistant professors, buildings and increased establishment for the College at Sabour. Provision has been made for an additional inspector for the Tirhut Division and for a larger grant for travelling allowance.
Cinchona plantation ...	2,21,953	2,07,976	2,61,497	2,60,929	4,27,000	4,20,000	4,11,000	The decrease in the budget is due to a smaller grant for the purchase of cinchona bark.
Public exhibitions and fairs ...	14,993	... ..	615	.....	1,500	.. ...	.....	
Botanical and other public gardens	1,19,502	1,51,425	1,74,285	1,85,491	1,96,000	1,87,000	1,92,200	Budget includes a smaller grant for the maintenance of Government Gardens in Calcutta.
Emigration	22,107	20,467	22,245	21,580	22,000	22,000	23,000	
Inspector of Factories ..	24,803	25,489	26,823	37,628	46,000	47,000	59,000	Budget includes provision for the purchase of a steam-launch and for its establishment and maintenance.
Census	1,466	1,492	1,598	1,595	1,700	2,000	2,000	
Gazetteer and Statistical Memoirs...	17,812	26,738	34,237	21,160	8,000	1,000	6,000	
Registration of railway traffic ...	7,068	7,877	9,372	11,349	12,000	11,000	11,000	Based on actuals.
Ditto of river-borne traffic	5,132	6,352	3,006	3,169	4,500	4,000	4,500	
Provincial statistics ...	28,563	39,378	35,984	38,899	38,000	36,000	36,300	Budget based on probable requirements.
Preservation and translation of ancient manuscripts ...	6,920	8,400	9,200	9,200	10,000	8,000	9,000	Based on actuals.
Examinations	1,350	1,026	466	471	1,000	500	500	
Inspector of Mines... ...	508	413	472	343	500	500	400	
Meteorology	9,771	13,077	14,542	10,406	10,200	11,000	10,200	
Registrar of Co-operative Credit Societies	16,285	32,241	33,239	30,400	42,000	32,000	43,000	The decrease in the revised is under salaries and allowances.
Inland Labour Transport Fund	...	...	23,160	20,472	23,000	21,000	24,000	
Miscellaneous (Smoke Nuisance Charges)		17,894	17,836	18,137	59,700	33,000	57,500	Budget includes Rs. 37,300 for the Fishery Department, and Rs. 20,174 for the Smoke Nuisance Commission. The saving in the revised is under Fisheries.
Refunds	633	1,104	136	130	300	5,000	300	
					15,07,000		15,13,000	
Less deduction as probable savings					75,000		50,000	
Total ...	9,73,964	10,76,142	12,26,465	12,20,110	14,32,000	13,79,000	14,69,000	Revised based on the actuals of the first nine months.

29.—Superannuation—

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Superannuation and Retired allowances	24,34,509	25,55,207	26,91,845	26,80,468	27,76,000	27,40,000	28,20,000	Provision has been made for the normal growth of expenditure.
Compassionate allowances ..	13,606	13,512	13,986	13,027	14,000	13,000	13,500	
Gratuities	9,963	10,048	10,425	8,243	10,000	23,000	10,000	Budget based on past actuals. The increase in the revised is due to the payment of the commuted value of a portion of the pension of an Assistant of the Bengal Secretariat.
Marine Department pensions ...	28,303	12,555	10,459	10,256	11,000	9,500	9,000	
Refunds	86	321	431	980	500	500	500	
Deduct—Probable savings ...	.....	.....	...	.....	—500	.....	.....	
Total	24,86,467	25,91,643	26,27,146	27,12,983	28,11,000	27,86,000	28,53,000	Revised based on the actuals of the first nine months.

30.—Stationery and Printing—

Forms Department at the Presidency	63,563	60,811	57,771	55,535	59,000	63,000	55,000	The saving in the revised is under allowances and contingencies.
Stationery purchased in the country	33,584	33,140	33,646	33,181	34,000	34,000	33,500	
Government Presses ...	4,83,463	5,59,249	5,71,336	5,86,547	6,47,500	5,49,500	6,18,000	The decrease in the revised is due chiefly to savings under the establishment of the Secretariat Press.
Printing at Private Presses ...	2,715	660	931	17,224	21,000	21,000	21,000	Both Budget and revised include the cost of printing the Indian Law Reports at a private press.
Stationery supplied from Central Stores	7,01,192	8,12,939	6,71,520	6,24,354	6,54,000	6,25,000	6,11,000	Revised and Budget based on the figures supplied by the Controller of Stationery. The decrease since 1908-09 is due to the discontinuance of the printing of forms for Eastern Bengal and Assam.
Refunds	695	452	779	625	500	500	500	

Miscellaneous charges for the treatment of patients of the Pasteur Institute * ...	.....	.....	54	448	.....	500	500	Budget and revised based on probable requirements.
Charges for search of hidden treasure	.....	.....	96	.....	.....	.....	.....	
Khedda charges	13,853	11,166	11,000	16,000	12,000	20,000	20,000	
Travelling allowances to officers attending examinations ...	6,440	7,828	6,217	4,341	7,000	4,000	6,000	Budget based on actuals.
Reward for proficiency in Oriental languages, and allowance to the Language Examination Committee	12,955	13,580	7,804	8,300	10,000	12,000	10,000	
Cost of books and publications	600	597	611	600	650	32,000	63,100	Budget and revised include Rs. 62,500 and Rs. 31,250 respectively for the payment of subscription to a vernacular news paper.
Donations for charitable purposes	1,51,675	1,34,806	1,67,966	1,92,466	1,23,000	1,37,000	1,54,000	Budget includes provision for a larger grant to the Calcutta Hospital Nurses' Institution and for a contribution to the Lady Minto Nursing Association. Revised includes a grant to the Lady Minto Nursing Association.
Charges on account of European vagrants	4,963	6,636	5,690	7,753	9,000	7,000	8,000	
Rewards for destruction of wild animals	5,764	7,555	9,980	12,102	8,000	16,500	17,000	Larger grant provided for with reference to increase in actuals.
Petty establishments ..	9,814	14,413	16,590	30,553	41,000	42,000	41,000	
Special Commissions of Enquiry	86,982	1,38,116	1,68,353	1,27,622	20,000	11,000	20,000	Revised based on actual charges including the probable expenditure on the enquiry in connection with Beri-Beri.
Irrecoverable temporary loans written off	350	2,763	7,885	8,175	8,000	5,000	6,000	
Rent, rates and taxes ...	36,790	32,952	32,243	34,825	35,000	38,000	35,000	
Contributions	342	4,013	32,519	4,930	4,500	6,000	5,200	
Miscellaneous and unforeseen charges	5,366	3,069	286	5,217	1,12,000	5,000	1,07,000	Budget includes provision of one lakh for unforeseen charges.
Miscellaneous refunds ...	16,776	12,994	97,852	.....	9,000	9,000	9,000	The actuals of 1908-09 included special refunds on account of excess recoveries in connection with the Howrah and Rajapur drainage advances.
Extraordinary items ...	960	766	4,355	356	...	.	1,000	
Allotment for petty grants by His Honour the Lieutenant-Governor	.....	.....		.....	1,00,000	.. ...	1,00,000	The charges are adjusted under the appropriate heads for which the grants are sanctioned. This allotment was previously provided for under "Civil Works in charge of Civil Officers."
					4,98,150			
For rounding	.....	.....	.....	.....	—150	... .	+250	
Total ...	3,46,630	3,91,254	5,69,380	3,93,897	4,98,000	3,44,000	6,03,000	Revised based on the actuals of the first nine months.

...—Subsidized Companies—*Land, etc.*—

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals	Actuals.	Actuals	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs	Rs.	Rs.	Rs	Rs.	
Land charges of the Bengal Provincial Railway ..	.....	3,413	.....	.....	2,000	4,000	.....	

42.—*Irrigation—Major Works—(Working Expenses)*—

Productive Works—								
Orissa Canals	3,99,092	4,30,069	4,19,057	4,44,664	4,13,000	4,54,087	4,54,000	The increase in the revised is chiefly under establishment charges.
Midnapore Canal ...	1,61,123	1,84,291	2,12,361	2,21,375	1,85,800	2,18,000	2,11,300	
Hijili Tidal Canals	51,493	49,783	46,676	55,740	46,000	71,000	51,000	The increase in the revised is chiefly under maintenance and repairs.
Sone Canals	5,73,895	7,51,750	6,98,982	7,04,989	6,80,600	7,27,875	7,01,000	The increase in the revised is chiefly due to extensions and improvements and partly also under establishment.
Dhaka Canal	3,304	18,268	20,071	35,704	24,700	19,600	19,700	
Tribeni Canal ...	.....	...	.	.....	.....	.....	13,000	
Deduct—Probable savings	.. ..	...	. ..	.....	. ...	+ 438		
Total ...	11,88,907	14,25,201	13,97,147	14,62,472	13,50,000	14,91,000	14,50,000	
Provincial Share ..	11 88,907	14,25,201	13,97,147	14,62,472	13,50,000	14,91,000	7,25,000	The Provincial share is one-half with effect from 1911-12.

43.—*Irrigation—Major Works—(Interest on Debt)*—

Interest	21,21,310	21,06,986	20,90,527	20,75,293	20,92,000	20,76,000	20,77,000	This is for the interest payable to the Imperial Government on the capital expenditure on Irrigation Major Works.
Provincial Share	21,21,310	21,06,986	20,90,527	20,75,293	20,92,000	20,76,000	10,39,000	The Provincial share is one-half with effect from 1911-12.

45.—*Minor Works and Navigation*—

IN CHARGE OF THE CIVIL DEPARTMENT.								
Embankments under the con-								

drainage projects ...	4,146	4,197	5,551 / 142	1,876	1,025	1,000	400	
Refunds	65	1,384	59	2,551	.....	300	700	
Temporary establishment ...	4	.....	.....	.....	.....	.....	.....	
Travelling allowance ..	12	4	.....	11	25	.....	.....	
Grain compensation allowance	311	453	523	320	198	.....	.....	
Add—For rounding ..	.....	.....	.....	.....	—229	.....	—328	
Total in charge of the Civil Department ...	10,211	12,680	11,116	11,658	8,000	8,000	7,000	Budget based on actual requirements.
Provincial Share ...	10,211	12,680	11,116	11,658	8,000	8,000	8,000	The Provincial share is one-half with effect from 1911-12.
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT.								
IRRIGATION AND NAVIGATION WORKS.								
Works for which Capital and Revenue Accounts are kept.								
CAPITAL.								
Works in Progress								
Orissa Canals	18,824	35,532	44,376	58,856	43,000	29,700	60,000	Budget includes Rs 50,000 for the extension of the existing, and the construction of new, minor distributaries.
Midnapore Canal	1,414	638	2,529	1,707	1,800	1,800	2,250	
Sone Canals	6,975	224	1,698	3,334	6,000	3,900	48,000	Budget includes Rs. 40,000 for dispensaries and quarters for the Revenue establishment, and for the completion of a minor distributary on the Sone Canals.
Calcutta and Eastern Canals ...	4,89,794	1,46,425	3,32,040	4,75,259	24,200	34,600	—81,000	
Madaripur Bhil Scheme ..		1,34,489	1,39,346	3,29,560	3,45,000	3,94,000	3,78,750	
Saran Canals	.....	—426	.....	.....	.....	.....	.....	
Ulterbagh lock	.....	.....	.....	.....	36,000	18,000	60,000	
Total Capital .	5,16,187	3,16,883	5,19,989	8,68,716	4,56,000	4,81,900	4,63,000	
REVENUE.								
Orissa Coast Canal	1,21,111	1,29,606	1,00,366	66,858	1,09,000	92,617	87,000	
Saran Canal	2,852	2,516	2,488	5,870	3,000	2,975	4,000	
Calcutta and Eastern Canals ...	4,42,877	4,46,356	2,84,633	2,35,874	4,79,000	3,84,950	3,75,400	
Madaripur Bhil Scheme ...			23,370	24,340	12,000	8,830	9,600	
Total Revenue ..	5,66,840	5,78,478	4,09,667	3,32,942	5,97,000	4,89,372	4,76,000	
Total Works for which Capital and Revenue accounts are kept ...	10,82,977	8,95,361	9,29,646	12,01,658	10,53,000	9,71,272	9,39,000	

4g.—Minor Works and Navigation—continued.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Works for which only Revenue accounts are kept.								
Works in Progress.								
Nadia Rivers	1,46,046	1,13,269	1,15,408	1,32,236	1,02,000	1,00,500	1,08,000	
Gaighatta and Buxi Khals ...	100	9,706	8,425	387	1,500	1,200	600	
Total Works for which only Revenue accounts are kept	1,46,148	1,22,975	1,23,833	1,32,722	1,03,500	1,01,700	1,08,600	
Works for which neither Capital nor Revenue accounts are kept.								
Works in Progress.								
Eden Canal	31,869	31,113	16,167	26,687	27,000	27,850	35,400	
Madhuban (Teur) Canal ...	3,295	8,465	8,435	8,834	8,500	12,178	8,000	
Improvement of navigable channels—Ganges river ...	4,790	168	.....	.....	40,000	35,000	40,000	This is for training works in the river Ganges.
Sugarcane irrigation by pumping in Bihar	13,672	—48	.....	.....	.....	.....	.....	
Surveys of protective irrigation works in the districts of Darbhanga and Hazaribagh ...	.....	.....	3,922	1,480	.....	.....	.....	
Total Works for which neither Capital nor Revenue accounts are kept	53,666	39,698	28,524	37,001	75,500	75,028	83,400	
Total Irrigation and Naviga-								

Works for which only revenue accounts are kept and for which neither Capital nor Revenue accounts are kept.							
Works in Progress.							
Government embankments ...	5,43,165	7,19,569	8,05,311	7,78,837	9,90,000	9,62,000	9,81,000
Midnapore Takavi embankments under contract	26,170	29,255	49,759				
Bandak Takavi embankments under contract	44,983	52,234	86,733				
Rajapur and Howrah drainage...	10,724	18,122	8,260				
Magra Hât drainage project ...	... ...	... ..	.....				
Total Agricultural ...	6,24,042	8,19,180	9,50,063	7,78,837	9,90,000	9,62,000	9,81,000
Reserve	... ..	.....	.....	.....	50,000		50,000
Total in charge of the Public Works Department ...	19,06,731	18,77,214	20,32,056	21,50,218	22,72,000	21,00,000	21,62,000
Provincial share ...	19,06,731	18,77,214	20,32,056	21,50,218	22,72,000	21,00,000	10,81,000

Budget includes Rs. 33,000 for the construction of sluices and escapes in the embankments in Orissa, Rs. 16,500 for the Government share of the contribution for the Kansaki channel, Rs. 20,000 for the construction of bungalows at Diamond Harbour and other places, and Rs. 25,000 for clearing the outfall channels of the khas tahsil khals in the district of Midnapore. It also includes Rs. 75,000 for the completion of special repairs to the embankments, Rs. 21,000 for the maintenance of the khas tahsil khals in the Midnapore District, Rs. 24,500 for the improvement of the Ballyghya drain and Rs. 22,000 for Bagjola drainage scheme.

The Provincial share is one-half with effect from the 1st April 1911.

45.—*Civil Works*—

In Charge of the Civil Department.							
Ferry charges	3,832	2,179	1,404	1,237	5,000	6,100	9,000
„ refunds	28,696	25,376	23,748	25,428	26,000	25,000	23,000
Staging bungalows ...	6,227	6,755	7,667	6,896	7,111	5,500	6,634
Encamping grounds ...	1,166	624	291	344	816	400	684
Contributions in aid of Excluded Local Funds and Municipalities	1,47,139	3,69,359	16,93,563	16,43,339	7,23,000	4,93,000	11,46,000
Grant to the Calcutta Improvement Trust ...	—....	.....	. ...	.....	.. ...	.. ..	11,50,000
Contribution to District Funds and District Road Funds ...	.....	.....	.....	.....	11,24,000	10,71,000	11,21,000
For rounding ...	.....	.....	.....	.....	+23	.....	—318
Total in Charge of the Civil Department	1,87,060	4,04,293	17,29,675	16,76,238	19,26,000	16,01,000	34,89,000

Budget includes Rs. 4,000 for the construction of a *pucca* approach road to the Ranaghat ferry, and Rs. 1,690 for the purchase of an iron ferry boat for Ranaghat.

Budget includes 9½ lakhs for grants for sanitary improvements, one lakh for petty grants placed at the disposal of Divisional Commissioners, and Rs. 50,000 for contribution to the Calcutta Corporation towards the drainage of the fringe area.

Budget includes Rs. 9,25,000, being the augmentation grant to District Funds, Rs. 60,000 for grants towards the construction of feeder roads, and Rs 60,000 for grants to the Road Fund, Sonthal Parganas.

45.—*Civil Works*—concluded.

Heads.	1906-07.	1907-08.	1908-09.	1909-10.	1910-11.		1911-12.	Remarks.
	Actuals.	Actuals.	Actuals.	Actuals.	Sanctioned estimate.	Revised estimate.	Budget estimate.	
1	2	3	4	5	6	7	8	9
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
In Charge of the Public Works Department.								
Original Works.								
Civil Buildings { In progress .. / Not commenced }	37,14,379	38,22,254	32,18,939	21,08,133	{ 8,66,800 / 4,93,935 }	20,47,918	{ 10,41,200 / 11,59,600 }	
Communications ... { In progress ... / Not commenced }	3,42,216	5,11,329	2,91,305	93,86	{ 39,600 / 90,000 }	1,28,256	{ 77,600 / 25,000 }	
Miscellaneous Public Improvements. { In progress .. / Not commenced }	1,82,236	2,96,628	76,570	27,173	8,300	34,320	{ ..... / 15,000 }	
Total ..	42,38,822	46,30,111	35,86,814	22,29,166	24,97,635	22,10,494	23,18,900	
Repairs.								
Civil Buildings	5,03,567	5,46,123	5,37,296	5,92,760	5,75,000	6,11,182	6,50,000	
Communications ...	9,17,326	9,00,619	8,93,737	9,88,671	10,00,000	10,45,360	10,25,000	
Miscellaneous Public Improvements	67,629	56,739	22,839	29,118	50,000	33,045	50,000	
Total ...	14,88,522	15,03,481	14,53,872	16,10,109	16,25,000	16,89,577	17,25,000	
Establishment	8,46,362	9,59,300	10,63,424	10,64,471	10,84,365	11,01,196	9,59,700	The decrease is due to the transfer of the charges of the office of the Examiner of Public Works Accounts from Provincial to Imperial.
Tools and Plant	1,31,337	64,906	82,898	29,146	52,000	48,733	60,000	
Stock and Suspense ...	—11,615	96,184	1,06,792	17,812	.....	.....	.....	
Total in charge of Public Works Department	66,93,428	72,53,992	62,93,800	49,51,064	52,59,000	50,50,000	50,93,000	
Grand Total	68,80,488	76,58,225	80,22,875	66,27,202	71,85,000	66,51,000	65,68,000	

Land Revenue	...	...	69,000						
Provincial Rates	...	...	.....						
Police ...	...	...	1,000						
Education	...	...	55,000						
Medical	...	...	10,000						
Scientific and other Minor Departments	...	...	4,000						This head has been abolished with effect from 1908-09.
Miscellaneous	...	...	15,20,000						
Covering Deficit	...	...	.....						
Civil Works	...	...	6,65,000						
Famine Relief	...	...	3,12,000						
Reserve	...	...	.....						
	Total	...	28,26,000	19,19,273					

...POSED TO UNDERTAKE DURING 1911-12.

Obligatory schemes which have been provided for in the Budget.

Major budget head and sub-head under which provision has been made.	Name of scheme.	Estimate of ultimate maximum cost.			Estimate of expenditure in 1911-12.			Remarks.
		Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	
2.—*Land Revenue.*		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Survey and Settlement— Provincial ...	Calcutta Revenue Survey	7,162	.....	7,162	7,162	.....	7,162	In connection with the survey of Calcutta it is proposed to prepare maps for the purposes of Revenue administration showing the boundaries of revenue holdings. The cost of so doing will devolve upon Government.
Charges of District Administration— General establishment salaries.	Additional Deputy Magistrates and Sub-Deputy Collectors for the Survey and Settlement Department ...	.....	1,76,700 (Exclusive of pension charges and travelling allowances.)	1,76,700	... ..	61,850	61,850	Provision has been made in the Budget for 1911-12 for the following additional officers :— Rs. Deputy Collectors, including Probationers ... ... 24,850 Sub-Deputy Collectors, including Probationers ... 37,000 61,850

Executive blishment.	Reorganization of the Excise Department and its amalgamation with the Salt Department.	.....	2,16,276	2,16,276	.....	50,000	50,000	A proposal has been submitted to the Government of India for the reorganisation of the Excise Department and its amalgamation with the Salt Department. The cost of the proposed amalgamated establishment will be Rs. 10,14,264 showing an increase over the present sanctioned scale of Rs. 2,16,276 per annum. A provision of Rs. 50,000 has been made towards the introduction of the new scheme in the event of its being sanctioned during the year.
ovincial share ...	.....	.....	1,62,207	1,62,207	.....	37,500	37,500	
Assessed Taxes.								
a Establishment...	Reorganization of the clerical establishment of the office of the Collector of Income-tax, Calcutta.	.....	5,784	5,784	.....	5,302	5,302	A proposal to reorganize the Calcutta Income-tax Office has been approved by the Local Government.
incial share ...	.....	.....	2,892	2,892	.....	2,651	2,651	
II.—Forest.								
vancy and Works	Construction of three additional cutters at Rs. 20,500 each and three rangers boats at Rs. 3,500 each for work in the Sunderbans Forest Division, together with the employment of the necessary establishment for them.	72,000	4,160	76,160	34,500	2,720	37,220	At present the officers in charge of coupes in the Sunderbans Forest Division live in house boats and proceed to various distant places for inspection in small country boats. Much time is thus wasted; with a view to the economy of which it has been decided to provide steam cutters and boats. Rs. 10,000 has been provided for the construction of one cutter in 1910-11.

ıde.		Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	REMARKS.
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
ervancy and Works	Initial cost of the Agency Forest officer in the Orissa Feudatory States. (Tents and buildings.)	11,000	.....	11,000	9,000	.....	9,000	The proposal is to appoint a Forest officer to supervise the working of the forests in the Feudatory States in Orissa. The interests of the States themselves, and the possibility of future mischief to the adjoining British territory, if the dangerous denudation in some of the States is allowed to continue unchecked, warrant the appointment of an officer. Rs 2,000 has been provided for in the year 1910-11. One-third of the cost will be recovered from the Feudatory States.
Ditto ...	Ditto Expenses on account of establishment, travelling allowance, contingencies, etc.	.....	9,960	9,960	.....	9,960	9,960	Rs. Salary ... ... 500 Establishment ... ... 100 Peons ... ... 30 Travelling allowance ... 150 Contingencies ... ... 50 Total ... 830
ishment ...	Reorganization of the Forest office establishment.	.....	5,128	5,128	.....	5,128	5,128	The principal object of the reorganisation was to raise the emoluments of the clerical staff, specially of the lowest grade clerks, in order to attract more efficient candidates than are now employed, and to transfer to the permanent staff certain men who have hitherto been on the temporary establishment, but whose services are required permanently. This has been sanctioned in Government order No. 1565 T.—R., dated the 19th September 1910.

	scale of pay for the Provincial Forest Service.							with a view to making the Service more attractive to candidates of the classes desired. On the recommendation of the Government of India, the Secretary of State (*vide* his despatch No. 11 Rev., dated the 4th February 1910) sanctioned the reorganization of the Service, the main feature of which was the introduction of a time scale of pay.
...cy and Works	Departmental working of timber in Angul.	12,000	.....	12,000	6,000	.....	6,000	No bids were received at an auction sale held at Cuttack for the sale of steading timber in the Angul Forest Division. Unless the timber is extracted by departmental agency, the forests must remain unworked for at least two working seasons. The proposal is to cut down the principal trees in certain circles, and to remove them to the river bank where they will be available for sale. Rs. 6,000 has been provided for in 1910-11.
...al Forest ...	.....	95,000	39,156	1,34,156	40,500	37,716	87,216	
...—Registration.								
...tendence— ...lishment ...	Revision of the establishment of the Inspector-General's office.	.....	6,000	6,000	.....	6,000	6,000	The establishment of the office of the Inspector-General of Registration was last revised in 1889. Proposals for further reorganization are under consideration, and in anticipation of sanction a lump provision is made.
Law and Justice—Courts of Law.								
Court, Original	Reorganization of the ministerial establishment of the High Court.	.....	23,797	23,797	.....	23,797	23,797	The High Court submitted a proposal for the reorganization of the ministerial establishment of the Original Side at a total cost of Rs. 29,931 a year, which after revision was reduced to Rs. 23,797. The scheme has been submitted to the Government of India for orders.

ads.		Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
idency Magistrate—								
laries	Appointment of a 5th Presidency Magistrate.	.....	7,200	7,200	.....	7,200	7,200	An additional Presidency Magistrate has already been appointed for six months. The proposal to make the appointment permanent is under consideration.
Officers,—Mufassil ablishment.	Increase of retaining fees, etc., of Government Pleaders and Public Prosecutors.	.....	50,000	50,000	.....	50,000	50,000	Representations have been received from Government Pleaders and Public Prosecutors that their present rates of remuneration are inadequate. The question is now under consideration; but as it is anticipated that some increase will be required, a lump provision of Rs. 50,000 has been made.
Law and Justice— urts of Law—		.....	80,997	80,997	.....	80,997	80,997	
20. *Police.*								
tta Police ...	Creation of two Deputy Commissioners in the Calcutta Police.	.....	16,650	16,650	.....	16,650	16,650	Rs. A. Pay of two Deputy Commissioners, Rs. 700 per mensem 1,400 0 Local allowance Rs. 100 ... 200 0 House allowance Rs. 75 ... 150 0 Exchange compensation allowance ... ... 87 8 Per mensem ... ... 1,837 8 Per annum ... ... 22,050 0 *Deduct*—Pay of one Superintendent, retired ... 5,400 0 16,650 0 This is in continuation of action already taken in accordance with the recommendation of the Police Commission to replace the former Superintendents of Police by Deputy Commissioners.
Ditto ...	Reorganization of the Special Branch, Cal-	.....	35,156	35,156	.....	33,006	(a)33,006	(a) The provision includes—

Ditto	...	Strengthening of the High Court Guards.						Superintendent ... 450 House-rent ... 160 } = 1,810 Sergeants ... 1,200 1,810 × 12 ... 21,720 Clothing ... 1,200 22,920 At the instance of the Hon'ble High Court the arrangements for the policing of that building have been reorganised.
Ditto	...	Clerks in offices of Deputy Commissioners.	.....	7,560	7,560	.....	7,560	7,560	Rupees 6,720 has been provided under Presidency Police, and Rs. 840 under River Police. The clerical work in Deputy Commissioner's offices has hitherto been done by executive officers. This is contrary to the recommendations of the Police Commission, and it is proposed to provide regular clerks.
Ditto	...	Hire of quarters for married European Sergeants.	.....	10,800	10,800	.....	10,800	10,800	The existing accommodation available for married officers has proved to be insufficient.
Ditto	...	Additional Military Police in the neighbourhood of Calcutta.	2,00,000	66,000	2,66,000	1,75,000	25,000	2,00,000	It is considered necessary to strengthen the Military Police force in the neighbourhood of Calcutta.
			Estimate under preparation.						
ngal Police.									
tendance	..	Improvement of the prospects of the ministerial officers in the office of the Inspector-General and Deputy Inspector-General.	.....	26,610	26,610	.....	20,000	20,000	The office has not been reorganized since 1869, and the present proposals are the outcome of the recommendations of the Ministerial Officers, Salaries Committee.
Police	...	Appointment of three Assistant Superintendents	.....	10,800	10,800	.....	7,200	3,600	This is in accordance with a recommendation of the Police Commission. Provision is made for four months from November 1911, when it is anticipated that the officers will be recruited.

ıde.		Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	REMARKS.
		Rs	Rs.	Rs.	Rs.	Rs.	Rs.	
rict Police—concld.	Grade promotion of sub-inspectors.	.....	75,840	75,840	.....	69,520	69,520	These are in accordance with the recommendations of the Police Commission. Provision has been made for 11 months only from the 1st April 1911.
	Grant of one rupee increment to 3,420 constables.	.....	41,040	41,040	.....	37,620	37,620	
	Increase to complete the cadre of the ordinary police in the Burdwan and Presidency Divisions.	35,409	56,992	92,401	25,000	25,000	50,000	This is necessary in order to complete the *cadre* recommended by the Police Commission.
	Revision of boat establishment.	.....	12,780	12,780	.....	12,000	12,000	The existing establishment was sanctioned in 1889, since when the current rates of boat hire have risen considerably and men can no longer be obtained on the pay previously offered.
y Police ...	Force required to complete the cadre of the East Indian Railway Police.	.....	11,687	11,687	1,794	9,501	11,295	This is in accordance with the recommendation of the Police Commission.
Government share	.....	.....	3,506	3,506	538	2,850	3,388	
Total Police ...	.....	2,35,409	3,85,334	6,20,743	2,00,538	2,86,526	4,87,064	
). *Education.*								
ion	Regrading of pay of sub-inspectors.	.....	68,960	68,960	.....	68,960	68,960	The scheme for the regrading of sub-inspectors has been sanctioned by the Secretary of State with effect from January 1910. Rs. 17,880 has been provided for the additional sub-inspectors added to the lowest grade. The

	of Government colleges.							Pay of four officers in the Indian Educational Service 24,000 Exchange compensation allowance ... ... 1,500 Salary of two temporary lecturers ... ... 4,800 Cost of acting promotion of two appointments ... 2,400 Promotion of officers of the Provincial Educational Service and the Subordinate Educational Service ... 27,300 60,000
								This is a further instalment of the scheme initiated in 1907.
	Improvement of the teaching staff of the Presidency College.	... ..	5,400	5,400	... ..	5,400	5,400	Provision made for— Rs. 1 post in the Provincial Educational Service, class VII ... 250 1 post in the Provincial Educational Service, class VIII ... 200 Per mensem ... 450 Per annum .. 5,400
								Two temporary posts have been sanctioned by Government. It has been found necessary to make them permanent.

ision has been e.	Name of scheme.	Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	Remarks.
ucation—concld.		Rs	Rs.	Rs.	Rs.	Rs.	Rs.	
ernment Colleges, General.	Improvement of the staff of the Ravenshaw College, Cuttack.	.....	6,300	6,300	.....	6,300	6,300	Provision made for— Rs. 1 post in the Provincial Educational Service, class VII ... 250 1 post in the Subordinate Educational Service, class II ... 200 1 post in the Subordinate Educational Service, class VI ... 75 Per mensem ... 525 Per annum ... 6,300 Four temporary posts were sanctioned by Government. It has been found necessary to make three of them permanent.
al College ...	Improvement of the staff of the Sanskrit College.	.....	31,920	31,920	.....	7,800	7,800	Provision made for— 1 post in the Provincial Educational Service, class VIII ... 200 1 post in the Subordinate Educational Service, class III ... 150 1 post in the Subordinate Educational Service, class IV ... 125 1 post in the Subordinate Educational Service, class V ... 100 1 post in the Subordinate Educational Service, class VI ... 75 Per mensem ... 650 Per annum ... 7,800 Two temporary posts were sanctioned by Government. It has been found

mt Colleges, sional—								
Engineering	Mining instructions in the Colliery Districts.	.....	8,736	8,736	.....	8,736	8,736	Provision made for four lecturers at Rs. 150 each ... 7,200 Travelling allowance ... 1,200 Four chaukidars at Rs. 7 each ... ... 336 Total ... 8,736
								The mining instructor's agreement having come to an end, and not having been renewed, it has become necessary to make other arrangements. The above provision is for a lecturer at each centre.
ıment Schools, pecial—								
...	Improvement of the Hooghly Madrasa.	.....	6,300	6,300	.....	6,300	6,300	Provision made for two posts in the Provincial Educational Service and for additions to be made to the staff.
ıcellaneous.								
and hostel	New scale of allowance for the Superintendents and Assistant Superintendents of hostels and messes attached to Government Colleges.	.....	17,788	17,788	.....	17,800	17,800	The Government of India have sanctioned a general scale of allowance for Superintendents and Assistant Superintendents of hostels in place of the varying and unsatisfactory existing arrangements. This provision is made in order to enable the scale to be introduced next year.
l Education ...		.....	2,57,662	2,57,662	.....	1,87,954	1,87,954	

		Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	
24.—Medical.		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
ical Examiner—aries.	Special allowance to Assistant Chemical Examiner.	.....	9,000	9,000	.....	1,800	1,800	The Government of India have sanctioned a scale of allowance at the rate of Rs. 50, rising by biennial increments of Rs. 10, to Rs. 150 to the Assistant Surgeons employed in the Chemical Examiner's Department.
tion and Vaccina-	Malarial enquiry ...	.....	20,552	20,552	.....	20,552	20,552	The Government of India have sanctioned a scheme for the systematic investigation of malaria, and have deputed an Indian Medical Service officer to supervise the enquiry. The expenditure involved is as follows :— Salary of special officers ... Rs. 14,400 Establishment ... ... 1,152 Travelling allowance ... 3,000 Contingencies ... ... 2,000 Total ... 20,552
tal Medical ...	.....	.....	29,552	29,552	.....	22,352	22,352	
cientific and other or Departments.								
ıary and Stallion ges—								
ls and Dispens-	Reorganization of the Veterinary Service.	.....	2,08,520	2,08,520	.....	20,370	20,370	The scheme has already been sanctioned, and it will be introduced as funds are available. Rs. 10,000 was provided in the current year's Budget on this account, and it is estimated that Rs. 57,600 will be required next year; but of this Rs. 37,230 will be recovered from local bodies.
tural College, ur.	Employment of additional Professors, etc.	.....	16,860	16,860	.....	16,860	16,860	Provision made for the employment of five Assistant Professors, one Assistant Botanist and one Demonstrator.
a Plantation—ation Account	Additional temporary establishment	14,000	.....	14,000	14,000			

	launch for the Factory Department.						at a cost of Rs. 16,000. Half of this will be paid from General Revenues and half from the Steam Boiler Inspection Fund. The establishment and maintenance charges will be borne by Government.
fic and other partments.	.....	22,000	2,27,636	2,49,636	22,000	39,486	61,486
tionery and nting.							
Presses. y Jail Press.	Revision of establishment	.....	9,664	9,664	.....	9,664	9,664

The amount represents the net extra cost of the proposals which have been received from the Inspector-General of Prisons for the revision of the Press establishment. The amount has been arrived at as follows :—

1. Permanent (Increase)—

		Rs.
(*a*) Salary	...	11,148
(*b*) Temporary	...	7,716
(*c*) Overtime	...	8,000
Total	...	26,864
2. Piece (Decrease)	...	17,200
Net increase	...	9,664

These proposals are based generally upon the principles laid down by the Press Committee.

rision has been le.	Name of scheme.	Non-recurring.	Recurring.	Total.	Non-recurring.	Recurring.	Total.	
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
3—*Miscellaneous.*								
of books and publications.	Payment to the Editor of the *Indian Mirror* of a subscription for 25,000 copies of a new vernacular paper for free distribution.	.....	62,500	62,500	.....	62,500	62,500	
ions for charitable poses.	Grant to the Calcutta Hospital Nurses' Institution.	.....	21,400	21,400	.....	21,400	21,400	The present grant to the Calcutta Hospital Nurses' Institution amounts to Rs. 53,600 a year. The Committee of the institution having asked for further help from Government in order to enable them to meet the increased expenditure involved by the employment of additional nurses and a supervising staff at the Calcutta Medical College Hospital, Government has agreed to contribute to the extent of Rs. 3 for every Re. 1 raised by public subscription, up to a maximum Rs. 75,000 in any one year.
Ditto	Lady Minto's Indian Nursing Association, Bengal Branch.	.....	5,500	5,500	.....	5,500	5,500	The Local Government has undertaken the responsibility for the provision of housing accommodation for the Nursing Sisters of the Lady Minto's Nursing Association, Bengal Branch. It is estimated that Rs. 5,500 will be required for rent, taxes, lighting and fans and the upkeep of furniture during 1911-12.
Miscellaneous ...	.....	.....	89,400	89,400	.....	89,400	89,400	
AND TOTAL ...	.....	3,59,571	14,67,200	18,26,771	2,79,200	8,62,096	11,41,296	

[*Mr. Duke; Mr. Slacke.*]

He said:—

Sir—"I beg to present the revised Financial Statement for 1911-12.

"The amended draft Financial Statement was circulated to members on the 2nd instant, which is three days earlier than was found possible last year, and to that extent we have been able to meet the request for more time for consideration of figures in framing resolutions. Attention has been drawn to the more important points of the estimates in the detailed notes which accompanied the statement and in my covering memorandum. It is only necessary to read with them the subsequent memorandum issued on the 11th March.

"The most important feature in the estimates of the year is the change which has been made by the Government of India in connection with the provincial settlement. The effect of this has been explained in paragraph 6 of my memorandum. Upon the figures taken as the basis of the arrangement the province stands to gain Rs. 7,46,000. Should the revenue heads of which we now receive a larger share continue to grow in the future we shall of course gain more largely, and this fact constitutes the advantage to the province from the substitution of a larger share of progressive revenues for a portion of the fixed assignment. On the other hand, we have to reckon with the fact that the Government of India declare that this is a final settlement and it is essential that all future proposals for increasing the expenditure of the province, more especially the recurring part of it, should be framed in view of this fact.

"Our closing balance for 1911-12 is shown to be lakhs 85·77. So large a figure may arouse some criticisms considering how severely necessary and even urgent expenditure has had to be restricted, and I will therefore give some explanation of it.

"Forty lakhs is the balance of the Imperial grant-in-aid to the Calcutta Improvement Trust.

"Seventeen-and-a-half lakhs is the unexpended balance of the special grant from the opium surplus of 34½ lakhs made to us in the revised estimate for non-recurring expenditure on education and sanitation. It is anticipated that the total grant will be expended in the course of two years.

"Twenty lakhs is our prescribed minimum closing balance. In other words, the balance in hand over what is considered the minimum of safety will be 8·27 lakhs. Even as regards this I may remind the Council that we are embarking on one great project, the Monghyr Jail, for which 22 lakhs more will have to be found in the course of the next three years."

The Hon'ble Mr. Slacke introduced the following heads:—

Revenue—

1—Land-revenue.

Expenditure—

3. Land-revenue.
8. Provincial Rates.
18. General Administration.

He said:—

"I beg leave to introduce, Sir, the consideration of the following heads:—'1—Revenue—Land-revenue—Expenditure'; '3, Land-revenue'; '8, Provincial Rates'; '18, General Administration.'

"In the revised estimate of the Budget it will be seen that there was an improvement in the receipts of Rs. 61,000. This is due to better collections of ordinary miscellaneous revenue owing to good crops. As compared with the original estimate of Rs. 1,26,000, there has been a decrease, partly in the Orissa maintenance operations, partly in the grant for contingencies and process-serving establishments, and partly under salaries of officers. This last saving was due partly to the sanction of the Secretary of State not having been received to the proposal for increasing the cadres of Deputy Magistrates and Sub-Deputy Collectors to meet requirements of the Settlement Department, partly to the deputation of officers on special duty to other departments from

Resolution.

[*Babu Deba Prasad Sarbadhikari; the President.*]

whose funds their salaries were met, and partly to smaller leave allowances received by officers who have taken leave.

"In the Budget for 1911-12, we shall receive an assignment of Rs. 26,000 from Imperial Revenues in return for the abolition of the Patwari Cess in Sambalpur, and another assignment of Rs. 1,47,000 for the continuous maintenance of the record-of-rights in Orissa. We anticipate a small increase of Rs. 13,000 in receipts on account of gross land-revenue in addition to a revised estimate of Rs. 3,04,000 for the present year. The collections from Government estates, which, according to the revised estimate for the current year, will be 34¼ lakhs, are expected to reach 35⅓ lakhs in the next year. After all the adjustments the gross provincial share of land-revenue is expected to be Rs. 1,51,90,000, as against the revised estimate of Rs. 2,32,50,000 for the current year. This decrease is due to the special adjustment described in paragraph 14 of the Amended Financial Statement.

"On the expenditure side the charges for District Administration show a small increase. The estimate for the next year is Rs. 30,10,000, which includes a lump provision of Rs. 1,35,000 for the increase of the pay of ministerial officers. Under the head of Management of Government Estates, a small provision of Rs. 40,000 has been continued since last year to meet certain urgent works of improvement which cannot be financed from the ordinary grant.

"A sum of three lakhs of rupees has been provided for the Delhi Coronation Durbar and a sum of Rs. 19,000 for the travelling allowances of non-official Members of the Legislative Council. The balance of the increase is almost entirely due to the fact that the cost of the Executive Council will have to be met for the whole of the coming year."

The Hon'ble Babu Deba Prasad Sarbadhikari moved the following Resolution :—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of Rs. 30,000, or such other sum as the Government think fit, be provided for improving the Provincial Executive Service ;

(*b*) that the grant at the disposal of Divisional Commissioners for petty local works of improvement (page 22 of the Financial Statement, paragraph 59) be reduced by Rs. 20,000; and

(*c*) that the charge for purchase of a new launch for the Inspector of Factories and its maintenance (Rs. 10,256, at page 18 of the Financial Statement, paragraph 52) be omitted from the Budget.

The PRESIDENT said:—"The Hon'ble Member has circulated his speech to all Members of Council, and I think, therefore, with his permission, that it will be convenient to take it as read. Does the Hon'ble Member wish that this should be so ?"

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I shall move the Resolution as it stands in the Agenda.

"With regard to what has fallen from Your Honour, a foreword by way of explanation is necessary, and I would, with Your Honour's permission, make a few remarks, for my notes, already in the Hon'ble Member's hands, cover larger ground than the Resolution in the Agenda. In compliance with the invitation of the Secretary to the Council, Members, who can and care to, send in notes of their proposed remarks by way of assisting official Members in their replies. Not more than four or five days can possibly be at the disposal of Members, for which reasons these notes as well as the Resolutions which they support have to be rushed as fast as possible. Complicated facts and figures extending over scores of closely printed pages and taking weeks and possibly months

Resolution.

[*The President; Babu Deba Prasad Sarbadhikari.*]

preparatory care and attention is involved, non-official Members do not mind accommodating official Members, or all Members for the matter of that, with their notes, if, that is to say, they have not much of a reputation to lose for high class oratory, *impromptu* dialectical skill or off-hand ability to saccharise dry-as-dust figures. Such accommodation may help in boiling down the issues before the Council and in saving time; but reciprocity and sufficient time are essential to ensure its continuity. The strain of such rush and procedure in the case of busy professional people, without resources and assistance open to official Members, and possibly to leisured non-official Members, is apt to tinge the resolutions and the observations in their support, and it would be a great help and kindness to them to allow them some more time. The question was pointedly raised last year in Council, and Your Honour, while admitting that there was room for improvement, could not hold out prospects of much relief, having regard to the dates of the different stages of the Budget proceedings. This year, however, owing to exceptional circumstances, the Financial Statement was presented to the Council without being considered by the Financial Committee, and not much evil would result if Members in future years had access to the statement in its still earlier and cruder stage, with due notice and warning of course that the statement is open to change, as has been the case this year.

The PRESIDENT said:—

"I am afraid I must ask the Hon'ble Member to confine himself to the Resolution which he is about to move. I understand that what the Hon'ble Member wished was to offer an explanation. I do not see that the remarks which have so far fallen from the Hon'ble Member can be described as explanatory. Do I understand that these remarks are preparatory to your speech?"

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"That is so".

The PRESIDENT said:—

"I really do not think it necessary for the Hon'ble Member to enter into any discussion of the circumstances under which his note was prepared. His note is very full and comprehensive."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"The Resolution being now confined to the improvement of the Executive Service alone, the remarks in the notes that have been circulated so far as the details of the Judicial Service itself are concerned are no longer applicable under the circumstances that I have mentioned.

The following speech by the Hon'ble Babu Deba Prasad Sarbadhikari in support of this Resolution having been circulated to all Members of the Council before the meeting, it was, by order of the President under rule 34 (2), taken as read:—

"Speaking about the prospects of the Provincial Judicial Service during the August session of this Council, the Hon'ble Mr. Gourlay, then in charge of the department, said that 'the decision as to the time when the improvement of any particular service should be taken up must be left in the hands of the Government, because the Government alone could know the relative importance of the claims of the different services and of the different new projects and schemes'. On this ground he invited the Council to vote against the resolution for the improvement of the service which I was then moving. The Hon'ble Member asked the Council to leave the matter of improvement of any particular service entirely in the hands of Government. The Hon'ble the Maharajadhiraja Bahadur of Burdwan warmly seconded these sentiments, and though he was pleased to say that I had made out a very strong case for improvement of the Provincial Judicial Service, he expressed himself opposed to the principle of fettering the hands of Government regarding any particular

been retained as a shelf for deserving officers who were too old or had not the attainments which rendered them suitable for promotion, while promotions have ordinarily taken place from the second, or occasionally from the third grade. Since, however, owing to the very rapid promotions which have been granted in recent years, the average age of the Sub-Deputy Collector is becoming younger, it is possible, in the near future, that there may not be sufficient officers who, though deserving, are unfit for promotion to the Provincial Service, to fill up the first grade of Sub-Deputies, and that the anomaly may actually arise. Again, Government does not admit that the subordinate service should be the only or main recruiting ground for the Provincial service. Promotions from the one service to the other are to be regarded as a reward of exceptional merit, and upon the whole it is desired that the Provincial service should be regarded as of a superior status, and be recruited from men of better position and of higher attainments than in the other case. The principal ground which has moved Government to press for the change, which the Hon'ble Member desires to see made, is that the minimum pay of Deputy Collectors in Bengal is lower than in most Provinces in India, and has been held on the high authority of the Public Services Commission to be insufficient pay for officers of that status. I may add that although the change is eminently desirable, it cannot be regarded as of extreme urgency, since there has never been any lack of candidates of the highest class for the Provincial Civil Service, nor has any exceptional difficulty, in the way of officers being able to live respectably upon their pay, been brought prominently to the notice of Government.

"The Hon'ble Mr. Slacke will have something to say as to the resolution in which the means of providing this expenditure are proposed, and I shall not discuss them."

The Hon'ble MR. SLACKE said:—

"The Hon'ble Member has proposed that the grant at the disposal of Divisional Commissioners for petty local works of improvement should be reduced by the sum of Rs. 20,000. The system in accordance with which a grant of this nature is yearly placed in the Budget commenced from 1905. It was then considered that Commissioners of Divisions should be in a position to make grants to local bodies in order that small defects and needs that may be brought to their notice at the time of inspection or otherwise could be remedied at once and thereby save much needless correspondence. The sum of Rs. 90,000 was then distributed between the different divisions of the unpartitioned province. In the succeeding year an allotment of Rs. 60,500 was made to the six divisions remaining after the partition, and the same provision was repeated in 1907 and 1908. In 1909, owing to the great use that had been made of this allotment, the total grant was raised to ¾ lakhs, and in 1910 it was further increased to 1 lakh. It will thus be seen that this grant has in recent years been gradually increased, experience having shown that by this method much good could be promptly done locally. From the experience which I have gained in my tours throughout the province during the last six years, I am convinced that a great deal of hardship will result by any diminution of this grant, and I would, therefore, strongly advise the rejection of this proposal."

The Hon'ble MR. CUMMING said:—

'I am afraid, Sir, that the sum of Rs. 10,256 which is entered in the Budget for the Scientific and other Minor Departments, for the purchase and maintenance of a steam-launch for the use of the Special Inspector of Factories, will not be available for transfer to any other head. The cost of the launch is Rs. 16,000, of which half is being paid by the Boiler Commission and half will be paid by Government. The launch will be used by the Special Inspector of Factories, the Inspectors under the Boiler Commission and the Certifying Surgeon of Factories. I may point out that no fewer than 129 out of 187 factories in the Presidency and Burdwan Divisions are situated on or near the banks of the Hooghly. The launch has already been ordered; it will shortly be delivered by the builders, and it has to be paid for."

Resolution.

[*Babu Deba Prasad Sarbadhikari: Mr. Saiyid Wasi Ahmad; the President; Mr. Slacke.*]

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I am very glad that I did move the resolution, for we have a reassuring reply from the Hon'ble Mr. Duke that the Government realises the necessity of this reform, and is already in communication with the Government of India with a view of taking the necessary steps. When we bring forward resolutions by way of amending the Budget generally, we do not expect that effect will possibly be given to them in the same year; and if the way is thereby to a certain extent prepared for future action, the object of the resolutions, even if they be not carried, are to a certain extent met. The reason adduced in support of the reform that I have moved for have been fully supplemented by the Hon'ble Mr. Duke. But the fact that there is no lack of candidates on the existing pay would hardly be a reason for withholding a reform if it was felt that it was a necessary and desirable one. The state of the country is such that even by reducing the pay of some of our services it would not be wholly impossible to have a semblance of the class of candidates that the Government has been accustomed to get, though in the long run the effect for the worse on the public service is bound to be more and more appreciable. The possibility of getting nearly equally good men might be urged in connection with the educational service and other services, but it is one which we have always found it difficult to accept. To try to avail of the necessities of a community is hardly the right way of improving a service with regard to which there seems to be clear need for improvement. The principle that the Provincial Service ought not to be wholly or even largely recruited from the Subordinate service is one with which we all agree, but as recruitment from that service is permissible to a certain extent, it is desirable that the reform that I advocate should be introduced. The status of the Provincial Service which the Hon'ble Mr. Duke is rightly anxious to maintain would be further maintained if the initial pay of the service be raised to the level of the other provinces. That is one reason why reform should be effected as soon as funds permit. Those of my hon'ble friends who on the previous occasion found fault with me for not voicing the needs of the Executive Service have not taken part in the debate to-day. I do not know what interpretation to put on that silence. If they think that the reform that I am urging is not one that they can consistently support, of course my position would be to a certain extent weakened. If, however, having regard to the reply given by the Hon'ble Mr. Duke, they think that it is not necessary at this stage to press the matter further (as I take it to be the reading of the situation), I would myself not press the point."

The Hon'ble MR. SAIYID WASI AHMAD said:—"I wish to say a few words Sir."

The PRESIDENT—Is it by way of personal explanation?

The Hon'ble MR. SAIYID WASI AHMAD said:—"Yes. I did not speak in support of my hon'ble friend's resolution, not because I was not in sympathy with him, but because I was waiting for a reply from the Hon'ble Mr. Duke. Having heard that reply, I do not think it at all necessary that the Resolution of my hon'ble friend, Babu Deba Prasad Sarbadhikari, needs any support, though I am in full accord with his Resolution, and I only wish the allotment could have been made more."

The Resolution was then, by leave of the President, withdrawn.

The Hon'ble Mr. Slacke introduced the following heads:—

Revenue—

IX—Forests.

Expenditure—

11. Forests.

He said:—

"I beg leave to introduce, Sir, the consideration of the following heads:—

Revenue ... ... IX—Forests

[*Mr. Cumming.*]

"The receipts and charges of this department will be wholly provincial from 1911-12. The receipts are estimated to be Rs. 12,50,000 as against Rs. 12,00,000 in the revised estimate for the current year, and Rs. 10,88,640, the actuals of 1909-10. Up to the present year the provincial share of expenditure has been half. From 1911-12 the whole expenditure (Rs. 7,34,000) will be provincial, and this may be compared with the total expenditure of nearly 6 lakhs in 1909-10 and 6½ lakhs in 1910-11. The chief item of new expenditure is the provision of two new cutters and ranger-boats for the Sundarbans Forest Division at a cost of Rs. 34,500."

The Hon'ble Mr. Cumming introduced the following heads:—

Revenue—

XXI—Scientific and other Minor Departments.

Expenditure—

36. Scientific and other Minor Departments.

He said:—

"Sir,—I beg to introduce the consideration of the head 'Scientific and other Minor Departments'.

"The revised estimates for 1910-11 under this head show a small decrease in receipts and savings in expenditure to the extent of Rs. 53,000, distributed over all the departments. There was a smaller expenditure under the head of Contributions to Veterinary Hospitals and Dispensaries, on the Agricultural College and Experimental Stations, the purchase of cinchona bark and under the head of Fisheries.

"In the Budget for 1911-12, the gross receipts are expected to be Rs. 3,70,000, which is the same as the revised estimate for 1910-11. It is anticipated, however, that there will be an increase of receipts under the head of Experimental Cultivation owing to the opening of new farms and to the receipts from college fees at the Bengal Agricultural College.

"On the expenditure side the subjects of Emigration, Factories and Agriculture may be considered. In the case of Emigration, the salaries of the staff of the Protector's office have been improved. Under the head of Factories the chief item is a sum of Rs. 8,000, being half the cost of a steam-launch for the Inspector of Factories, to which allusion has already been made.

"There are four departments under the control of the Director of Agriculture, viz., (1) the Veterinary Department, (2) Agricultural Department, (3) Fishery Department, and (4) the Department dealing with Co-operative Credit Societies. During the present year, in the Veterinary Department steps have been taken to bring the veterinary assistants under the reorganization scheme sanctioned some time ago; and the present budget is drawn up so as to provide for this arrangement. Formerly, the Provincial Government made grants to local bodies towards the salaries of veterinary assistants, but in future there will be a Subordinate Veterinary Service paid for by the Government, while certain recoveries will be made from those local bodies who employ the veterinary officers. This new arrangement will be introduced from the 1st of April next.

"In the Agricultural Department proper there is an estimated expenditure of Rs. 4,03,500, compared with the revised estimate of Rs. 3,52,000 for 1910-11. The total increase is about half a lakh. The Bengal Agricultural College was opened last November, and there is in consequence some increase of expenditure under that head. There is accommodation for 120 students; and as the course is a three year one, 40 students per year will be taken. In the first year, however, as the staff had much to learn, the Director thought it advisable not to fill up the full number of vacancies. There are at present 21 students in the College, 7 of whom were nominated by the Government of Eastern Bengal and Assam, which, under the agreement made some years ago, will bear one-third of the recurring cost. The students were carefully chosen by the Director and the Principal out of a large number of applicants, and both they and their teachers have settled down to solid work. The increase in the cost of the upkeep of the farms is small, and is partly due to a project

for establishing a demonstration farm in the district of Angul, and partly to a scheme for popularising the growing of *eri* or castor silk amongst the people of South Bihar. The possibilities of the cultivation of castor silk-worms have already been demonstrated in North Bihar, and it is now proposed to spread a knowledge of it in South Bihar. There is a slight increase in the expenditure on Agricultural Associations. These bodies, and the agricultural exhibitions which are organized by them, are important links between the department and the cultivators. The members are gradually becoming better acquainted with the Inspectors attached to each Association; and they are making greater demands on their services. This is a welcome development. The new division of Tirhut has recently put forward its claim to have an independent association, and provision has been made for an extra Inspector and for a grant to the Association.

"Last year a provision of Rs. 40,000 was made for fisheries, but only a very small portion of this sum was utilized. The Department of Fishery was placed under the Director in January, 1910. The two students who had been sent to learn something of western methods of fish culture, were placed under him. The Director has submitted a scheme to Government asking for the assistance of a western expert, for two or four years, to act as a Deputy Director on terms similar to those on which the Deputy Director of Agriculture is employed. Provision has been made for this officer in the budget, and it is hoped that his services will be obtained at an early date. Meanwhile, the two assistants are employed, the one in carrying out some experiments in connection with carp culture, and the other in searching for the spawning grounds of *hilsa*. The estimated expenditure of this Department during the year is Rs. 37,300.

"The budget of the Registrar of Co-operative Credit Societies amounts to Rs. 43,000. This sum is only slightly higher than the estimate of last year. It is perhaps unnecessary to give any special account of the work of this Department. The excellent progress which has been made has been narrated by the Hon'ble Mr. Carlyle, in his speech in the Imperial Council on the 1st March, 1911."

The Hon'ble Mr. W. C. Macpherson introduced the following heads :—

Revenue—

V—Excise—

Expenditure—

7. Excise.

He said :—

"I have the honour, Sir, to present the figures relating to the receipts and charges of the Excise Administration. The figures for receipts are to be found on pages 29-30 of the Revised Financial Statement.

"It was originally estimated that the total excise revenue for the year would be Rs. 1,70,52,000. The revenue under this head had increased steadily for 16 years until the year 1908-09 when there was a check; and the revenue was less by ¾ths of a lakh than in the preceding year, and in the next year still two lakhs more. This falling off was due principally to poor harvests and the high price of food-grains; it was also due to the failure of the *mahua* crop, which is largely used for the purpose of distillation, and it was also due to the contraction of employment in the coal, mica and *lac* districts, which decreased wages and resulted in decreased consumption of country spirit. It was also due to the substitution of the contract distillery system in the districts of Bihar for the old system of outstills which resulted in large decreases of license fees.

"In the current year there has been a remarkable recovery of excise revenue due, as I think, principally to the better harvests and cheaper prices of food-grains. The receipts in the first 11 months of this year are 10 lakhs better than in the corresponding months of the previous year. . .

"I shall offer a few remarks to the Council with regard to the consumption of drink and drugs during the current year in explanation of some of the figures.

[*Mr. W. C. Macpherson.*]

"Under the head of 'country spirits', the figures of consumption can only be compared in the case of those areas which are under the same system this year as last year. We must therefore exclude from the comparison the districts of the Patna and Tirhut Divisions in which the contract distillery system was only introduced in the current year. With regard to other divisions, there was a decrease of consumption of country spirits in the districts of Orissa and Chota Nagpur and some of the districts of the Burdwan and Presidency Divisions, but there was a considerable increase in the Bhagalpur Division and in Calcutta and in the districts adjoining Calcutta. In Calcutta the increase was expected as the result of cheaper prices of food-grains, and the large decrease in consumption, which occurred in Calcutta two years ago, has apparently not yet been made up, although it is reported that here country spirit has to some extent displaced the cheaper imported spirit, in consequence of the increase of the tariff. The whole revenue under country spirits is still two lakhs lower than it was four years ago, though duty has been very much raised in recent years.

"Under the head of *tari* there is an increase of about two lakhs, which is probably due both to better administration and to the fact that many persons in Bihar prefer *tari* to the new contract spirit.

"Under the head of *ganja* there has been a more important and somewhat disquieting increase, especially in the districts of Bihar, due, it is stated, to lower retail prices consequent on a better season and lower wholesale prices in the *ganja*-producing area. The increase in the consumption of *ganja* will receive special attention in the Excise Administration Report for the year. With regard to consumption of opium, I have to mention that the issues of excise opium during the current year are 10 per cent. lower than they were three years ago when smugglers for Burma were specially busy in this Province.

"The revised estimate of excise receipts for the current year stands at 178 lakhs. A normal increase of about three lakhs may be expected next year, and the estimate for next year is placed at 181 lakhs.

"The provincial share of the current year's revenue is one-half, or 89 lakhs. With effect from next year the provincial share of the excise revenue and expenditure is to be raised to three-fourths. So it is expected that next year the provincial finances will receive about 136 lakhs from this source. It has before been pointed out that, next to land-revenue, the excise-revenue is the most important item of the provincial resources. Next year it will be only 15 lakhs less than the net provincial receipts from land-revenue, and in the future this item may come to stand first in our resources.

"I turn to the expenditure figures which are to be found on pages 43 and 44 of the Financial Statement. The revised estimate of expenditure for the current year stands at 9 lakhs, and the expenditure for next year at 9½ lakhs. I explained last year that the recent increase of expenditure on excise is chiefly due to the further introduction of the system of supply of contract spirit, which requires larger establishments and the construction of warehouses. The further increase proposed is due to provision made for the much-needed reorganization of the Excise Department with which it is proposed to amalgamate the Salt Department. The provincial share of the expenditure is one-half in the current year and it will be three-quarters, or Rs. 7,13,000, in the next year."

The Hon'ble Mr. W. C. Macpherson also introduced the following head:—

Expenditure—

0. Stamps.

He said:—

"I also present, Sir, the figures relating to expenditure under the head 'Stamps'.

"These are to be found on pages 42-43 of the Financial Statement. It is estimated that the expenditure next year will be Rs. 4 lakhs 38 thousand, against Rs. 4 lakhs 32 thousand, the revised estimate for the current year. Half of this expenditure is provincial. The figures do not require any special attention."

[*Mr. W. C. Macpherson; Mr. Duke.*]

The Hon'ble Mr. W. C. Macpherson also introduced the following head:—

Expenditure—

10. Assessed Taxes.

He said:—

"The figures relating to expenditure under the head 'Assessed taxes' that is to say, with regard to the establishment employed to collect the Income-tax, will be found on page 45. The charges are to be Rs. 163 thousand next year, against Rs. 156 thousand in the current year. The increase is chiefly due to the proposal to reorganise the Calcutta Income-tax office, which has been approved by the Local Government. Half of this expenditure is provincial."

The Hon'ble Mr. Duke introduced the following head:—

Expenditure—

19A. Courts of Law.

He said:—

"I beg to introduce, Sir, the figures relating to Courts of Law which appear on pages 49-50 of the Revised Financial Statement. The total figures under this head show a large increase—altogether from Rs. 82,43,000, the estimate for the current year, to Rs. 88,08,000 in the revised estimate, and Rs. 87,34,000, or somewhat less, in the estimate for 1911-12. The causes which have contributed to this are dealt with in the marginal notes, and to one or two of them I would merely refer briefly.

"A considerable amount of the increase is due to the revision of magisterial establishment which has been going on during the past year and is going on still, and will go on for some time, and it is a matter of time to carry it through. One item of this, which appears in this year's statement, is Rs. 23,797 for the ministerial establishment of the Original Side of the High Court. A similar increase will appear in the process serving establishments in the mufassal and again in the subdivisional establishments also in the mufassal. Again, an increase which appears in this statement, which has long been under consideration, is that of the retaining fees of Government Pleaders. There have been long-standing complaints that the fees which Government pays to Government Pleaders are no longer commensurate, or even approximately commensurate, with those earned by men of the same standing in private practice, and accordingly a provision of Rs. 50,000 has been made for raising the scale of Government Pleaders' fees. An exceedingly great increase in the Budget this year is in the expenditure upon law charges, excluding permanent establishment. The expenditure under this head in the current year, it is estimated, will amount to Rs. 9,70,000 by the 31st March; and of this sum, Rs. 6,57,000 odd will have been spent on and with cases in the High Court, and the remaining Rs. 3,13,000 will have been spent in connection with cases before Courts other than the High Court.

"So far as the first item is concerned, it must be borne in mind that there have been several cases of unusual duration and magnitude. The Special Tribunal will have sat for 122 days for the trial of five cases, three of which ended in conviction, and one is still pending. The pending case, known as the Howrah Gang case, if not disposed of by the 31st March, will have been under trial before the Special Tribunal for 71 days. Simultaneously a civil suit of great political importance has been pending on the Original Side of the High Court, and will have reached the one hundred and fourteenth day of hearing by the end of the year. The large expenditure involved in these cases covers not only the fees for actual appearance in court but also the cost of the heavy work of preparation for the trial, and there has in addition been the normal expenditure which has to be met every year.

"The remaining item of Rs. 3,13,000 spent in connection with litigation before Courts other than the High Court includes a sum of about Rs. 1,75,000 due to normal expenditure. The remainder may be accounted for by

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[*Rai Baikuntha Nath Sen Bahadur.*]

the cost of magisterial inquiries preparatory to commitment to the Special Tribunal. Thus the inquiry before the Magistrate into the Howrah Gang case occupied 86 days in Court. There have also been important Press prosecutions before the Presidency Magistrate and at Khulna, and a long trial at Alipore of a case arising out of the Alipore Bomb case.

"The Government have thought it their duty, having regard to the importance of the issues involved, to spare no effort in the rigorous prosecution of political offences. They have engaged the best professional aid available, and though this has been costly, the result has to some extent justified the cost, for for many months political crime has very much decreased and now appears to have almost ceased.

"The fees paid have certainly been high, but leading Counsel consider that they are entitled to ask high fees for prosecuting in such cases, for besides their difficult and intricate character, there is the fact that Counsel engaged on them are exposed to considerable annoyance, if not to actual risk. There is also the loss of practice by their protracted withdrawal from their ordinary work, and at one time there was the probability that accepting briefs for the Crown in such cases would of itself prejudice their future. This fear has, I hope, almost ceased now.

"Protracted as the trials have been, Government are assured that Counsel employed by them have never unnecessarily protracted the proceedings.

"The process might have been cheaper if resort had not been had to the Special Tribunal procedure. The advantages of resort to that procedure have been well worth the additional expenditure involved. In each case the venue has been removed from the centre of disturbance, and the trial has been as speedy as possible consistently with adequate inquiry into the facts. The procedure at each trial and the decision has been above the reach of criticism. This has been worth paying for at a time when a swift and even-handed administration of justice has been of the first importance.

"The Government has not lost sight of the importance of economy. The system will be carefully revised, and if by change of system economy can be secured without loss of efficiency, the Council may rest assured that the change will be made.

Rough account of details of expenditure.

	Rs.
Midnapore case	3,05,000
Howrah case	1,75,000
Other cases* in the High Court	1,75,000
Normal expenditure for courts other than the High Court ...	1,75,000
Expenditure in courts other than the High Court arising out of political cases	1,40,000
Total ...	9,70,000

The Hon'ble Rai Baikuntha Nath Sen Bahadur moved the following Resolution:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that, in order to increase the pay of 23 third grade Subordinate Judges by Rs. 100 each per month, and to give an allowance of Rs. 100 each per mouth to 20 Munsifs who are authorised to take cognizance of suits valued up to Rs. 2,000, provision be made in the Budget for 1911-12 by adding Rs. 27,600 to the sub-head "Subordinate Judges" and Rs. 24,000 to the sub-head "Munsifs" under the major head "19A—Courts of Law"; and

* This includes a normal expenditure of about Rs. 40,000.

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[*Rai Baikuntha Nath Sen Bahadur.*]

(*b*) that, in order that the total expenditure of the Province may not exceed the amount sanctioned by the Government of India by the proposed increase in expenditure, a reduction of the corresponding amount, *viz*, Rs. 51,600, be made in the estimates of sub-heads "Legal Remembrancer and High Court Pleaders" and "Mufassal Establishment" under the major head "19A—Courts of Law."

He said:—"In moving this resolution, Sir, I beg only to draw the attention of the Government once more to the case of the Judicial members of the Provincial Service. This has been done on many occasions by my humble self as well as, in more abler ways, by my hon'ble friends, Babu Deba Prasad Sarbadhikari and Babu Bhupendra Nath Basu, but with no success. I stand here again, and, notwithstanding the failures of the past, I entertain an optimistic view for the future. I feel confident that our just Government would show liberality and generosity to a class of officers who have been rendering valuable services to Government under higher pressure, and also to the satisfaction of the public as well as of the Government. These officers have to do certain works, and making a quantitative and qualitative estimate of their work, we find that they have been rendering valuable service to the Government. From the last Civil List I find that there are 23 Subordinate Judges in the third grade, and ten in the second grade, and of five in the first grade, there are only four remaining in service.

"It has been repeatedly urged before your Honour that a Subordinate Judge cannot be made permanent before he reaches the age of 52, and then he has only three years to carry him through the three different grades. In the first grade, therefore, very few live for more than a couple of years. A few no doubt serve in the second grade for some years, but the majority have to retire from the third grade. The remuneration they receive, I submit, is not adequate, especially in view of the fact that, as high Government officials, they have to incur heavier and large expenses to maintain their social position as also the prestige of the Government. Being high Government servants, they cannot travel in the third class on the railway, and in similar other ways also they have to incur heavy expenses, not to speak of marriages of daughters, which is also a very heavy item of expense indeed. So that what I propose is that Subordinates Judges, when they are made permanent, should get Rs. 700 instead of Rs. 600 a month.

"With regard to the Munsifs who are now in the first grade and who are practically doing Subordinate Judges' work by trying cases up to Rs. 2,000—there are 20 such Munsifs on the new cadre—I would submit that if these Munsifs had not been entrusted with these extra duties, six more Subordinate Judges would have had to be appointed. That has not been done, and it is not in the contemplation of the Government to do so. These gentlemen, who practically perform Subordinate Judges' work, get no remuneration for their extra work. Is it not fair and just that they should be remunerated in some way or other? I understand that under the orders of the Government of India, Rs. 500 grade Munsiffships cannot be created. It would have been well if that could be done, but as that cannot be done under the orders of the Government of India, I venture to suggest that a special allowance of Rs. 100 per month may be given to them. That would require an expenditure of Rs. 51,600, and for the counterbalancing reduction, I beg to suggest that a corresponding reduction may be made in the estimates of sub-heads 'Legal Remembrancer and High Court Pleaders' and 'Mufassal Establishment' under the major head '19A—Courts of Law.'

"The Hon'ble Mr. Duke has referred to the expenditure incurred in conducting political cases. It is to be hoped that there will be no further prosecutions of political cases. But still the pending cases will have to be carried through. The question is whether or not this reduction of Rs. 51,600 can be conveniently made. Belonging to the legal profession, as I do, it will not look well for me, and, I am afraid, my professional brethren will be displeased with me, if I try to curtail the expenditure on that head. But with Government, economy should be the first consideration. If a Counsel is to get three lakhs or two lakhs or one lakh of rupees for conducting a few cases, the

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[*Maulvi Saiyid Muhammad Fakr-ud-din.*]

amount may be considerably reduced by some sort of arrangement with him, and in this way the expenditure under this head may be curtailed, showing at least a saving of Rs. 51,600. There are still some cases pending, and there may also be appeals. And in appeals it might be so arranged by paying lump sums that the whole question might be solved. I do not think I should take up the time of the Council any longer. I merely make this suggestion for the acceptance of the Council. Your Honour has shown economy in all the departments where money was being rather freely spent and I feel every confidence that Your Honour will find your way to curtail this amount and to provide for a class of men who certainly deserve liberality and generosity at the hands of our just Government."

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN said:—

"Sir,—"I give my whole-hearted support to this resolution. This matter has come before this Council more than once. In March last, at the time of the Budget discussion, the Hon'ble Babu Deba Prasad Sarbadhikari put forward a resolution on this subject, but afterwards it was thought advisable to withdraw it. At the time of the discussion of the Financial Statement last year, I had the honour of inviting the attention of Your Honour and of this Council to the same matter. I pointed out in my speech at the time that those Munsifs who are in the first grade and who do the work of Subordinate Judges in trying cases of the value of Rs. 2,000, were justly entitled to get one hundred rupees more. At the same time, having regard to the refusal of the Government of India to create a new grade of Rs. 500 for the Munsiffs, I made a suggestion that in case Your Honour's Government were unable to make an addition to the pay of these Munsifs, perhaps a personal allowance might be allowed to those who tried cases of the value of Rs. 2,000, just as members of the Provincial Executive Service received an allowance when they had to perform extra work. These Munsifs are really hard-worked, and I believe an allowance of Rs. 100 to those who perform Subordinate Judge's work will satisfy them.

"As regards the pay of the Subordinate Judges, I had also the honour to point out that some of the Subordinate Judges who were working in the third grade hardly found an opportunity of getting a lift to the second grade; and so far as the third grade Subordinate Judges were concerned, Rs. 100 more should have been added to their pay, or the service of all the Subordinate Judges so graded that these third grade Subordinate Judges would have got a lift in the second grade in a very short time before they actually retired. This matter again came before this Council in the form of a resolution in August last, and my hon'ble friend, Babu Deba Prasad Sarbadhikari, very ably threshed out all the points concerning the improvement in the prospect and pay of the Judicial Service in his speech. I had the good fortune of supporting that resolution which was, however, withdrawn after the reply from the official Member. I do not know what will be the fate of to-day's resolution, moved by my hon'ble friend, Babu Baikuntha Nath Sen, because I am not confident that at this stage of the Budget discussion it will be possible for the Government to make any substantial change or alteration in the estimate; but even then I am sure that discussion of such matters before this Council will go at least to help us in future. We hope that Your Honour will try to extend Your Honour's liberal hands to the case of these hardworked Judicial officers.

"As regards the curtailment of expenditure, I also stand on the same footing with my hon'ble friend the Mover of the Resolution, as I also belong to the same profession, and the same remarks might also apply to me. But still I fully agree with the Hon'ble Mover that there ought to be curtailment in the expenditure under the head proposed by him, and that if by doing that an improvement is effected in the pay and prospects of the members of the Subordinate Judicial Service, I have every reason to believe that everyone will be satisfied. Surely the cost budgeted for the expenses in political cases is too large a sum and the legal practitioners could be more economically engaged and retained in those cases. With these few words, Sir, I beg to support the Resolution."

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[*Mr. Duke; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble MR. DUKE said:—

"The proposal of the Hon'ble Member is that Subordinate Judges of the third grade should receive a salary of Rs. 700 a month, instead of Rs. 600, and that Munsifs who are selected for the exercise of special powers to try cases up to the value of Rs. 2,000 should receive Rs. 500, instead of Rs. 400. I am afraid that it is not possible to accord a very favourable reception to these proposals for a number of reasons In the first place, in most other provinces, the lowest grade of Subordinate Judges do not receive more than Rs. 500 and there is no sufficient reason to justify granting officers of the same standing in this province as much as Rs. 700. Further, if the prospects of the Provincial Judicial Service be compared with the Provincial Executive Service, it is in the higher grades that the former service has the advantage. It will be seen already that the advantage is in the higher grades, and, therefore, any further concessions made would be to create a greater disparity between it and the Executive Service and necessitate raising the standard of that service, and in fact, before any change of this kind is made, Government would have to consider whether there were not other services whose claims to improvement were entitled to preference. Now, as to the position of Munsifs who have been empowered to try suits up to the value of Rs. 2,000, I think that the arguments used are fallacious. In the first place, it has been suggested that either an increase of pay or an allowance of Rs. 100 should be given to them as a remuneration for the extra work. It is not suggested how we are to do this. This is a somewhat important matter. Then, in the next place, the matter, as the Hon'ble Mover and his supporters have admitted, was disposed of comparatively recently, in March 1904, by the Government of India, who definitely negatived the proposal, and the suggestion to get round it by mere grading, is a mere device which would not be admitted. We would have to push for a change, not to get round it by a device of this kind.

"As to the manner by which the proposed expense has to be financed, I referred to this only a few minutes ago, and I can only say that under the head 'Legal Remembrancer and High Court Pleaders,' Rs. 1,74,000, which has been budgeted under this head, includes a normal expenditure which will have to be met quite irrespective of the cost of political cases, and that the remainder will be absorbed by the cases which are actually pending or awaiting trial, for which arrangements with Counsel have already been made. The other suggestion is that money should be deducted under the head 'Mufassal establishment.' The only place from which money could be taken is from the Government Pleaders whose position it is proposed to improve; this has been long asked for, it has been well considered, and we are now in a position to do it, and we should not be disposed to curtail the improvement which it is proposed to make, in order to take up another improvement as to which we are not so convinced. Taking the other item, the largest item of the estimate, I would merely point out that this is less by Rs. 90,000 of the amount which, it is estimated, has been spent under this head during the current year, and it cannot fairly be further curtailed. I cannot admit that economy is always the first object. Economy is not the first object in a matter which conduces to the peace and good order of the country. The first object is that cases should be successfully conducted, and I do not think that we should attain that object by curtailing 25 per cent. of the remuneration of the persons whom we have engaged for the purpose, nor could we induce them to accept that curtailment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"My own little one having somewhere strayed, for the time it must come under the category of the missing. I would therefore be very glad to adopt my friend's pet child, that is to say, if he would let me do so after charging me with its desertion some months ago. The facilities for adoption in the country would have enabled my doing so, if I had not realised in time that the stripling had somewhat outgrown the proportions to which I had accustomed myself. While in full sympathy with my friend's desire to raise somehow the pay of the Munsifs who have to do what the Hon'ble Mr. Duke will not admit is extra work but which is certainly more responsible work, I feel a difficulty in according

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[*Babu Deba Prasad Sarbadhikari.*]

my support to the proposal that the pay of Subordinate Judges in the last grade for the present be raised from six to seven hundred rupees. The result of the adoption of the first portion of my friend's suggestion would be to create a much wider gulf between the pay of the 1st grade Munsifs and the 3rd grade Subordinate Judges—no less than Rs. 300—which would be no easy and acceptable solution of the difficulties of the situation. Promotion in the Subordinate Judge's rank has therefore to be smoothed and made easier by some other means than the one suggested by my Hon'ble friend in this resolution.

"With regard to the 100-rupee allowance for Munsifs of the 1st grade, however, I feel hesitation in accepting the dictum of the Hon'ble Mr. Duke that it would be a device to get round the opinion of the Government of India for the time being that the 500-rupee grade for Munsifs should not be introduced into this province. In answer to the Hon'ble Rai Baikuntha Nath Sen Bahadur, the Hon'ble Mr. Duke has referred to the scale of Subordinate Judge's minimum pay in other provinces where it is Rs. 500. If the case of Eastern Bengal were to be quoted, and we were to urge again that because the 500-rupee grade for Munsifs obtains there, we ought to have it here for reasons previously urged, I am afraid it would not be allowed to tell in our favour. Therefore, the fact that Subordinate Judges elsewhere get Rs. 500, by itself, is no answer to my friend's proposition. But there are other practical difficulties which I realize, and having regard to which I am unable to give my support to that part of his resolution.

"Sir, the Hon'ble Mr. Duke has referred to the disinclination of the Government of India to allow the 500-rupee grade, and when discussing the resolution on the subject in August the Hon'ble Mr. Gourlay claimed to have given the *quietus* to the question for all time. Mr. Gourlay told us on the occasion that your Honour's Government would not be prepared to move further in the matter having regard to the attitude to the Government, unless the Hon'ble Judges of the High Court moved again. We do not know what the position of the Hon'ble Judges with regard to the question at the present moment is, nor have we any means of accelerating their action in any way. But is it to be always presumed that, because for the time being the Government of India is opposed to the creation of the 500-rupee grade, questions with reference thereto are never more to be raised, because, having regard to the peculiarly delicate nature of the situation, the High Court does not see its way to move *de novo*? If, however, no permanent addition to the pay of the 1st grade Munsifs as a body is for the present possible having regard to that opinion, what objection can there be to the adoption of the temporary proposal of allowing an allowance of Rs. 100 to Munsifs who certainly do more responsible work than the ordinary 1st grade Munsifs—work that under the terms of service they could not be strictly expected to do? The Hon'ble Mr. Duke says that they do not do extra work, because they are not shown to have worked extra hours. If a time-keeper were attached to these Munsifs' Courts to note the hours during which they work in Court, such an officer would have no sinecure, for the Munsifs' hours even in Court are notoriously long. We do not quite know what the orthodox office hours for Munsifs are considered to be, but we know as a matter of personal experience that oftener than not they have to work in Court up to or even after nightfall, and if this is not working extra hours, a Secretariat schedule will probably show what regular and what extra hours are. But this is not all, and even if all work were recorded correctly, my imaginary time-keeper would not furnish an accurate record of the Munsif's work, for he has to take home considerable work of which the time-keeper is never likely to have any information. This work at home involves much more anxious care and deliberation than in Court, for this work is admittedly more responsible than normal work. We have been raising these questions for a long time in and out of Council, and this is the first time that it has been stated on behalf of Government that what Munsifs do in trying cases above 2,000 rupees, is not considered extra work. Successive Secretaries of the Judicial Department have borne willing testimony to the arduous nature of this work, and we always thought that adequate compensation was not provided merely because of want of funds. We, therefore, submit that if the Government of India's pronouncement stands in the way of permanent addition of their pay by the creation of a 500-rupee grade, those at least who

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[*Khan Bahadur Maulvi Sarfaraz Husain Khan; Babu Bhupendra Nath Basu.*]

try suits up to Rs. 2,000 should have the temporary benefit advocated in my friend's resolution.

"As to the question of ways and means, reference has been made to the law charges which have in recent years gone beyond all proportion. Two of my legal friends who have spoken before me have spoken with hesitation, lest they should go against the creed and the traditions of the profession, in asking for curtailment of charges that it may be their own good fortune some day to earn. I belong, Sir, to another branch of the profession where the daily struggle is to cut down Counsel's fees as much as possible. When I joined the profession one of the leaders of the Bar told me that the first thing I should cultivate assiduously was the ability to mark the back sheet of a brief correctly. He had a view of things of his own with regard to the proper marking of fees which I and my friends have never shared, for we have our own points of view in the matter as well. The struggle for curtailment of Counsel's fees is a long-standing one, and the High Court taxing rules which are fairly rigid are going to be made still more rigid. Either these rules are right or they are not, and, if they are, they should to some extent be applicable even to the Government. I do not know whether the bills of cost which are now being paid will ever come before the taxing officer of the High Court, for if they do these high fees will never be allowed. I am not unaware that, in spite of that scale, Counsel do take and get larger fees, but such fees are never out of proportion to the necessities of the case or the situation. No one would desire that efficiency should be sacrificed for the sake of economy, but if efficiency can be secured on more economical terms than have been insisted on heretofore, there could be no legitimate grievance if such economy be not insisted on. Crime and disorder have unquestionably to be put down at any cost, but it must also be at a reasonable cost. I do not know whether among the fees referred to here to-day are included any paid to the Advocate-General in connection with cases in which the Government have an interest in the Original side of the High Court. If I am not mistaken the pay of the Advocate-General has recently been fixed on a much more liberal scale than before in view of increase of work, and the terms of the appointment do not contemplate the payment of extra fees for appearance on behalf or in the interest of Government, in the Original side of the High Court, at all events. I may be easily put right if my information and view of things is incorrect; if, however, they are substantially correct, and if the Advocate-General is paid extra fees in the Original side, it is an unwarranted expenditure which at all events ought to go out of the law charges. With regard to the other fees it is difficult to indicate the possibility of reduction without impairing efficiency, in the absence of details which makes one speak with natural hesitation. But there can conceivably be no circumstances under which such large fees, as the law charges indicate, should be necessary to be paid to a large number of Counsel engaged in the same interest, whatever may be said of the leaders. Closer scrutiny and stricter insistence on common-place business rules would be sure to effect considerable economy."

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN said:—

"Your Honour, with your permission I want to make a few observations on this question. The claims of the Subordinate Judges and Munsifs who steadily work hard throughout the year deserve special consideration, and I would most earnestly appeal to Government to find money for increasing the pay and improving the status of the members of the service; but as it has been suggested by the Hon'ble Mover of the Resolution that a corresponding reduction be made under the head 'Law Courts', I am unable to support the Resolution. Sir, I am a believer in the principle 'constant preparedness for war is the surest guarantee for peace,' and as lawlessness has not quite died out in the province, I would not advise Government to curtail expenditure under the head 'Law Courts'. With these few remarks I beg to resume my seat."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I do not wish to detain the Council with any observations of mine, because this is a subject upon which it is known to Government that we non-official members are more or less agreed. I fully realise however the difficulty

that has been raised by the Hon'ble Mr. Duke when he says that it would be impossible to induce the Government of India to create a new grade for Subordinate Judges which does not exist in other provinces. All that we shall say is that the present scale of pay of our judicial officers, having regard to the very difficult and tiresome work they have to do, is a matter which we trust will attract the attention of Government. I do not know what is the state of litigation in other provinces, but we know that in Bengal the disposal of these cases necessitates very hard and a very heavy amount of work. If the Government were of its own motion to institute an inquiry and compare the conditions of service between our province and other provinces, where I am told promotions are much more rapid, I believe some good will be achieved. There is onebranch of the motion about which I think I may say a few words. We, non-official members, share to the full extent the anxiety of Government that cases of a political nature, involving very large and serious issues as regards the well-being of the community, should be very fully dealt with and every weapon available to Government should be brought to bear upon the disposal of these cases in the trial so that there may not be any miscarriage of justice. We fully admit that position. But, Sir, it may be permissible to us to point out that the methods that have been adopted in some recent cases have had a deleteriou effect upon the public mind, and it may probably be that they have contributed in some measure at least to keep the agitation which the Government as well as ourselves are anxious to see should die out as quickly as possible. These expensive trials, with their paraphernalia of cordons of police and military escort, and long newspaper reports of three High Court Judges sitting in one bench to dispose of them, and the most eminent lawyers available at the bar engaged in their trial, either one side or the other, naturally tend to excite public interest in these matters."

THE PRESIDENT said:—

"The remarks of the Hon'ble Member are wandering quite outside the resolution."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I bow to your Honour's decision. What I was intending to say was this that in the best interests of the community the expenditure on these trials might be very well kept down by entrusting them to the ordinary law officers of the Crown. I believe the Government realises just as we do that their own law officers are quite able to do justice to these cases, and that there would be much less commotion if these cases were conducted in the ordinary way that the Government carries on its law business, and the expenditure would be much less, and therefore, as my Hon'ble friend Rai Baikuntha Nath Sen Bahadur says, we should easily have a large surplus available for other useful purposes of administration."

The Hon'ble MR. CHAPMAN said:—

"I think it is desirable, although I am not quite sure whether it is relevant to the question under discussion, that I should say something in regard to the cost involved in the political cases which the Government has recently had to undertake. I am not quite sure whether the Members who have spoken from the other side of the House have supported the first part of the resolution or not, but in any case some explanation should be made regarding the cost of these cases. In the first place, it is perfectly clear—at least in regard to the Standing Counsel—that the Government are not entitled to his services for prosecuting cases before the Special Tribunal, or for defending Government officers in the Original side of the Civil Court, without paying him fees, and this is also the case with the Advocate-General. The Government did not think itself justified in putting a very strict and hard interpretation upon the term 'Advocate-General's engagement'. The suggestion made by the Hon'ble Babu Bhupendra Nath Basu that the cost of these cases would have been less if we had engaged the law officers of the Crown to prosecute has no validity or weight. If the Standing Counsel or the Advocate-General had been engaged in the Howrah case, their fees would have been higher than those of the very able Counsel whom we have engaged to conduct it. The fees

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[*Rai Baikuntha Nath Sen Bahadur; Mr. Duke; the President.*]

of Counsel, as the Hon'ble Mr. Duke has explained, have been very high, but I will tell you that in negotiating with Counsel for these fees, I have approached them and asked them to take lower fees, and ultimately we have had to consent to the fees which are being generally paid. It is absolutely necessary in cases of such magnitude and difficulty that we should get the very best professional aid. The number of leading Counsel is very limited. They are in a position to put a high price on their services, and Government has had to pay. I do not think that Counsel have asked higher fees from the Government than what is paid by the general public and by the leading solicitors of Calcutta. Government have only paid ordinary fees which the leading Counsel always get. Cases of such a character as the Howrah case have made it absolutely necessary for the Government to employ the very best Counsel whose services were available."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said :—

"In reply, I will only make a very few observations, especially when I find that, with regard to the Hon'ble Mr. Duke's objections, my Hon'ble friends, Babu Deba Prasad Sarbadhikari and Babu Bhupendra Nath Basu, came to my help. In the first place, I should further submit that differentiation in the minimum pay of the Subordinate Judges in the different provinces ought not to stand in the way of doing justice to a body who deserve justice. It is a fallacious argument to urge that because Madras or Bombay pay so much or a Bengali Subordinate Judge began with so much, therefore their pay ought not to be increased. When was this scale fixed? Is it 5 or 10 or 20 years ago? That ought to be borne in mind. A long time has passed since the creation of the scale, and that ought to be taken into consideration. I was once told somewhere that Bengal Subordinate Judges and Munsifs furnish a good amount of revenue in the shape of court-fees, but their pay is certainly not adequate to the revenue thus realized. Now, if these Bengal officers began their service on a certain scale at a certain time, I submit, Sir, it is no argument to say that their pay ought not to be increased. Then the case of the officers of the Executive Branch has been urged as a set-off. When a non-official Member takes up the case of the members of the Executive Branch of the service, he is told there is the other branch of the service and that their case should also be taken into consideration. Improvements should be made in any branch when justice demands it, irrespective of what its effect may be on the other branch. It has also been urged with regard to the work of the Munsifs who try cases up to 2,000 that they do not do any extra work. I do not think I need repeat the arguments urged by my Hon'ble colleagues that it is not the quantity of the work but the quality of the work that has to be considered, the strain upon the brain should be taken into consideration. As regards the expenses, the Hon'ble Mr. Duke has said—at least so I understood from his speech—that economy is a negligible matter in criminal prosecutions. No private gentleman would say so."

The Hon'ble Mr. Duke:—"I did not say that."

The President:—"What the Hon'ble Mr. Duke said was that economy was not always the first consideration."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said :—

"That may be, but there are some other things also which should be taken into consideration. The Government should prosecute these cases vigorously, and that with as much strength and as many lawful weapons in their power as they can. I do not object to that. What I mean to say is that economy is not inconsistent with that state of things. I have just heard from the Hon'ble Mr. Chapman that arrangements were sought to be made for the reduction of the costs. I am glad of that, but I submit that economy can be exercised with regard to these charges. With regard to arrangements already made, I will say nothing, as the Government has already pledged themselves, but I believe that no arrangement has been made in anticipation, and that no forward contract has been made for appeals. With these remarks I submit and appeal to all Members of

Resolution.

[*The President; Babu Deba Prasad Sarbadhikari.*]

Council, official or non-official, to take into consideration the case of those officers who are working hard, but who have not been remunerated in an adequate manner. I need not say anything more. But my Hon'ble friend, Babu Bhupendra Nath Basu, has just suggested to me whether I can take the first portion of my motion, *i.e.*, the case of the Subordinate Judges, and put that for the acceptance of the Council. I should like to do it if Your Honour has no objection."

THE PRESIDENT:—"As the resolution has been drawn up, that course is not practicable."

A division was taken, with the following result:—

Ayes 14.	*Noes* 27.
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I.
" Maharaja Manindra Chandra Nandi.	" Mr. F. W. Duke, C.S.I.
" Babu Kirtanand Sinha.	" Rai Kisori Lal Goswami Bahadur.
" Raja Rajendra Narayan Bhanja Deo.	" Mr. W. C. Macpherson, C.S.I.
" Mr. J. G. Apcar.	" Mr. D. J. Macpherson, C.I.E.
" Mr. Golam Hossain Cassim Ariff.	" Mr. E. W. Collin.
" Mr. Saiyid Wasi Ahmad.	" Mr. C. J. Stevenson-Moore.
" Maulvi Saiyid Muhammad Fakr-ud-din.	" Mr. T. Butler.
" Rai Shibá Shankar Sahay Bahadur.	" Mr. E. P. Chapman.
" Mr. Madhu Sudan Das, C.I.E.	" Mr. J. G. Cumming.
" Rai Baikuntha Nath Sen Bahadur.	" Mr. H. Wheeler, C.I.E.
" Babu Braja Kishore Prasad.	" Mr. B. K. Finnimore.
" Mr. Dip Narayan Singh.	" Mr. S. L. Maddox.
" Babu Balkrishna Sahay.	" Mr. G. W. Küchler.
	" Mr. L. F. Morshead.
	" Mr. C. H. Bompas.
	" Mr. C. E. A. W. Oldham.
	" Nawab Saiyid Muhammad, Khan Bahadur.
	" Mr. W. R. Gourlay.
	" Mr. C. F. Payne.
	" Maharaja Sir Prodyot Kumar Tagore, Kt.
	" Sir Frederick George Dumayne, Kt.
	" Mr. Norman McLeod.
	" Mr. W. J. Bradshaw.
	" Maulvi Saiyid Zahir-ud-din.
	" Mr. T. R. Filgate.
	" Khan Bahadur Maulvi Sarfaraz Hossain Khan.

The following Members did not vote:—

The Hon'ble Kumar Shiba Nandan Prasad Singh.
" Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.
" Babu Deba Prasad Sarbadhikari.
" Babu Hrishikesh Laha.
" Babu Mahendra Nath Ray.

So the resolution was lost.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI moved the following Resolution:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of Rs. 10,000, or such other sum as the Government think fit, be provided for improving the Court-rooms of Honorary Presidency Magistrates of Calcutta; and

(*b*) that the special provision of Rs. 50,000 towards reorganisation of the Excise Department, in view of the amalgamation with it of the Salt Department (page 13, paragraph 39 of the Financial Statement), be reduced by the sum of Rs. 10,000.

Resolution.

[*Babu Deba Prasad Sarbadhikari.*]

He said :—

"This grant is necessary for strengthening the courts and improving the court-rooms of the Honorary Magistrates. The budget provides for the permanency of the fifth Presidency Magistrate, who was appointed some time ago as a temporary officer for the purpose of disposing of accruing arrears. Time there was, not very long ago, when two stipendiary Magistrates with the assistance of Honorary Magistrates used to dispose of the whole of the criminal work of Calcutta. There were complaints of delay and arrears which led to the appointment of a third officer who was recruited from the Subordinate Executive Service and was expected to keep down the arrears. A fourth officer came in time, first as a temporary measure and then to stay. The fifth Magistrate also came as a temporary measure, and according to the budget provision he is also to stay. And that is not all. The Registrar of the Court has been invested with magisterial powers which could have been done, I understand, only by appointing him as an Honorary Magistrate, though he is himself a Sub-Deputy Magistrate. He also does a considerable portion of the magisterial work. In the list of stipendiary Magistrates must be included the Municipal Magistrate, as he is called nowadays, who disposes of work which under the old law used to be done either by the two stipendiary Magistrates or by the Honorary Benches that used to assist them. Though we do not know under what circumstances the permanency of the fifth stipendiary officer has become necessary, as the Government has thought fit to provide for it, one must suppose there are good grounds for this increase of expenditure. We know, however, that full use has not recently been made of the machinery that used to be so useful not long ago in coping with the growing criminal work of the metropolis—I refer to the Honorary Magistrates. If it be considered undesirable to entrust such work to honorary agency, the more intelligible course would be to abolish that agency altogether. For reasons that were attempted to be fathomed in this Council last year—though not with much success—in connection with the mufassal Honorary Magistracy, that agency in the mufassal does not seem to be much in favour, and if similar reasons are believed to exist in the case of Honorary Magistrates in Calcutta as well, it would be businesslike to make short work of the system altogether, and to arrange for permanent increase of stipendiary magistracy on a sound basis. The facts, however, as far as they are known to the public, do not make out any case in favour of such abolition or substitution. Government resolutions throughout have warmly approbated the work of Honorary Magistrates, and individual Magistrates have been spoken of very highly indeed. Their work has stood the test of public opinion—of the still more-hard-to-satisfy opinion of the profession and of the High Court. Since the abolition of the system of appointing practising lawyers as Magistrates, there may have been some weakening of the system. There are, however, still on the list, quite a number of capable, hardworking, honest, diligent and painstaking Honorary Magistrates, who do their duty well, and who of late have been given steadily less and less opportunity of rendering service to the State which they and their predecessors in office have ungrudgingly rendered. Latterly, there has been a tendency to turn some of them into inquiring officers for the purpose of enabling stipendiary Magistrates to pass orders. This of course has not been quite relished for obvious reasons, and probably accounts partially for the unpopularity of the Bench in quarters where they cannot make their voice heard.

"If their work has in some instances suffered in quality, of which we have not heard, it is not wholly their fault. They are at present obliged to work against odds of a diverse nature. Benches of two or three Magistrates have not been called of late at all, and only one Court—a single-sitting Magistrate—is ordinarily called. If I am wrong in my information, I shall be glad to have a correct statement with regard to this matter, if it should please the Government to furnish it. In the next place, there is not an adequate number of officers available for their benches, even when they are called, and if this little assistance was provided, there would be no difficulty in getting four honorary Courts

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[*Babu Bhupendra Nath Basu; Mr. Duke.*]

every day, which would do their work well and efficiently, and would help the stipendiary magistracy as they have readily and willingly done in the past. Their next and the greatest difficulty is with regard to the court-rooms, and a dark, dirty and ill-ventilated room is all that is at their disposal for managing what work they can put through. If I am not mistaken, the Hon'ble Babu Radha Charan Pal, himself a willing martyr, drew a dark and sombre picture of the Honorary Magistrates' lot in Calcutta in this Council some time ago with a view of having it bettered. But the practical response to the call has been less and less every day. An adequate number of suitable cases are not transferred to Honorary Magistrates, though willing and capable Magistrates are at the disposal of the authorities. It can be to nobody's advantage that full service should not be got out of a deserving body of public servants, many of whom the Government has delighted to honour, and whose work, as a whole, has found commendation and approval in successive Administration Reports and Resolutions of Government, and whose field of usefulness one would have thought would have readily and willingly been extended. The success of the Calcutta Honorary Magistrates stood so high at a time that it was seriously thought of employing honorary agencies in connection with the trial of small civil causes on similar lines. Speaking of the Calcutta Police work, only last year the Government Resolution on the subject observed that your Honour was gratified to note that an increasingly large share of the criminal work was undertaken by Honorary Magistrates. In 1907 the courts of Honorary Magistrates accounted for some 1,300 cases, or 4·10 per cent. of the total, and during the year 1909 the number rose to 4,300 cases, or 8·9 per cent. of the total. Even with these figures, high as they are, I venture to say that full work is not obtained out of Honorary Magistrates, and if it were obtained, there would be no need for depriving the Provincial Executive Service of capable officers who have had to be drafted on to the Presidency Courts. There can be no question of the nature of the work done by Honorary Magistrates, for the Resolution I refer to testifies to it. On behalf of the Government and of the public your Honour placed on record in that Resolution your Honour's appreciation of the public spirit of those gentlemen and of the efficiency with which they have discharged their voluntary duties. If the services of such a body of public servants be fully utilised, it would be possible to do without one at least of the Presidency Stipendiary Magistrates, for whom useful work could be found elsewhere."

The Hon'ble MR. BHUPENDRA NATH BASU said:—

"May I inquire, if Your Honour does not think it impertinent, if there is any truth in the rumour that the present Police Court building is to be dismantled and a new building erected where adequate provision would be made for Honorary Magistrates?"

The Hon'ble MR. DUKE replied:—

"There is a scheme before this Government, but it is not in an advanced stage."

The Hon'ble MR. DUKE said:—

"Sir, the Hon'ble Mover recommends that a sum of Rs. 10,000 should be provided for improving the court-rooms for Honorary Presidency Magistrates, and he proposes to provide it by reducing the allotment made to the Excise Department. With the object which he has in view, Government is entirely in sympathy, and if Rs. 10,000 would be a sufficient provision to accomplish the object, it would somehow or other have been found. But I regret that I must take exception to some of the arguments with which the Hon'ble Mover has supported his claim. He refers to the motion which was brought in by Babu Radha Charan Pal some time ago, and says that the practical response to the call has been growing less and less. I think that the argument which he has used in this connection was that the services of the Honorary Presidency Magistrates are not appreciated by Government

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[*Mr. Duke.*]

or by the Chief Presidency Magistrate. Towards the end of his speech the figures which he himself quotes of the percentage of cases tried in Calcutta show that this has risen in the course of three years from 4·10 to 8·9 per cent., and as a matter of fact in the three years to which he refers, the number of cases has risen from 1,300 to 4,000, or more than three times more. It seems hardly intelligible to quote these figures and then to say that their efforts are not appreciated. As a matter of fact the work which has been done is appreciated, both by the Chief Presidency Magistrate who arranges the work, and by Government. Anything that can reasonably be done, will be done to take further advantage of them, but it is impossible to accept the suggestion that Honorary Magistrates could be employed to a much greater extent than at present and could replace one, not to say two, stipendiary Magistrates, as the Hon'ble Member suggests. Reference has been made to the work which has been done by the Registrar since he was vested with magisterial powers. The Mover has not alluded to the use that is being made of the Registrar. He generally disposes of what are known as the night charges, those of drunkenness, disorderly behaviour, etc., and other petty charges ready for transfer before 10 o'clock. The great object is that these cases should be speedily disposed of, so that they should not delay the Chief Presidency Magistrate in proceeding with the more important work of the day, nor is it suggested that there is any Honorary Magistrate who is willing to come regularly to Court and dispose of these cases between that hour and 11. Then the other work of the Registrar is to take dying depositions which come in at all hours of the night and day. It is true that many Honorary Magistrates are very willing to give this kind of service, but the difficulty is that it is necessary to know who they are, and it is a very troublesome matter for the police to keep up a list of them, and to go round in the middle of the night to find out whether the gentleman is at home and whether he is willing to do the particular work for which he is wanted. There are limits to the way in which Honorary Magistrates can be employed. The most important point, at any rate one that we hear so much of, is the necessity for providing adequate room for Honorary Magistrates. The Hon'ble Member says that the Courts of Honorary Magistrates do not seem to be in great favour. Long experience has shown that benches of several Magistrates cannot dispose satisfactorily of complicated cases, that is to say, protracted cases, because it inevitably happens, between the convenience of the special bench and the necessities of the case, that such cases are adjourned and protracted out of all reasonable proportion, from one Magistrate being unable to attend on one occasion and another being absent on the next; the order-sheet of the case at length becomes a scandal and it becomes a subject for regret that it was ever made over to a bench. Therefore the cases which the Bench Magistrates deal with are limited, and the only alternative is to employ single-sitting Magistrates. That is the reason why single-sitting Magistrates are employed in Calcutta, but the number who can be employed is necessarily small, that is to say, the number of gentlemen who are able to give their time and have the capacity and learning and for whom room can be found. That is in fact the crux of the whole situation: to find adequate Court-room. The condition of the Lal Bazar Police Court is very unsatisfactory, and of course available space has become much less as the number of stipendiary Magistrates has been increased, and it is a matter of great importance that the whole establishment should be revised as early as possible and more and better accommodation should be provided, but such accommodation cannot possibly be provided with the sum of Rs. 10,000. When the matter is taken up, it is probable that even with the greatest economy, very considerable expense will be required. Rupees 10,000 would barely build a single additional room which would have again to be dismantled the moment that the building as a whole were repaired or extended. That being the case, it will be understood that the matter must wait till reasonable budget provision can be made. But I can assure the Council that the scheme will be considered, and that as soon as possible, it will be brought forward. That being so, perhaps I need say very little with regard to the second part of the resolution, that Rs. 10,000 should be provided by reduction of the Excise establishment, that is to say, should be taken from the provision to be made for the reorganization of the Excise establishment. With reference to this, it is only necessary to say that the existing preventive establishments are probably one of the more

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[*Babu Deba Prasad Sarbadhikari ; the President.*]

directly profitable subjects on which Government spends its revenues. Our Excise establishments are very much below the strength which they ought to be and below what is provided in other provinces such as Madras and Bombay, and our proposals to increase them are made directly in view of obtaining increased revenue by doing so, by preventing various illicit practices. Therefore, in my opinion, the reduction of the expenditure of any particular sum, such as Rs. 10,000, on the establishment, simply means the forfeiture of a very much larger amount of revenue, and in the circumstances of this province, we cannot afford to let go any revenue that we can possible rake in, so that the particular suggestion for providing this expenditure is, I may say, singularly ill-chosen."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"My friend's reference to the Lall Bazar Police Court buildings is a valuable commentary on the methods of the Public Works Department, for the building was not erected very many years ago, and was supposed to have been designed according to an up-to-date plan—Italian—, as they called it, I think, at the time. However, experience has shown the defects of the building which, as I understand, Government will take steps to correct at the proper time, but in the meantime the very small expenditure that I suggest would help in taking some partition down here and effecting an opening there, and building a room there, and from what I have been able to judge during my recent visit, this would improve the condition of the Honorary Magistrates' Courts. Further assistance has to be provided in the appointment of a few clerks, as they have not the establishment enough to go on with their cases if a sufficient number of courts be sitting, which sometimes explains the delay to which the Hon'ble Mr. Duke has referred. I am sorry that the Hon'ble Mr. Duke did not notice the correction made in my speech to the effect that one at least of the stipendiary Magistrates might be dispensed with, if Honorary Magistrates were fully availed of. I do not wish to minimise the amount of work done by the Registrar or the stipendiary Magistrates, nor do I suggest that stipendiary Magistrates should be replaced by Honorary Magistrates, but what I do suggest and press for is that Honorary Magistrates should not be replaced by stipendiary Magistrates unless there is clear reason or necessity for doing so. Such a reason I have not heard in the way suggested in the reply that the Hon'ble Mr. Duke has made with reference to my proposal. I should be worse than inconsistent if, with the figures which I myself had furnished and which the Hon'ble Mr. Duke merely repeated, I for one moment should suggest that the Government did not appreciate the good work of Honorary Magistrates. What I complained of was that, though the Government appreciates very highly that work, fuller use is not made of that agency. The large number of cases that have been referred to in that resolution, and by the Hon'ble Mr. Duke, are chiefly petty cases, such as take up very little time or exact very little of their energies and resources such as would be required in the disposal of more difficult cases. The disposal even of a larger number of petty cases by Honorary Benches would give no real relief to the stipendiary Courts; for aught one knows the stipendiary Magistrates may be able to dispose of the petty cases quicker than the Honorary Magistrates by reason of their training and traditions. Real relief to the stipendiary Courts can come by delegation of the more difficult cases to the Honorary Courts, which used to be the feature of Police Court administration in years gone by, and against which there was never any complaint or objection. Real appreciation of the work of Honorary Magistrates would be demonstrated by such delegation, and not by augmentation of the number of petty cases disposed of by them, such as even the Registrar may without much difficulty be expected to put through."

THE PRESIDENT said :—

"Does the Hon'ble Member desire to press the resolution ? I thought that, after the remarks made by the Hon'ble Mr. Duke to the effect that we are considering a scheme for the improvement of the Court which will involve very much larger expenditure than this, and which when carried out would amply meet the requirements of the Hon'ble Mover, probably the Hon'ble Member might not find it necessary to press the resolution."

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[*Babu Deba Prasad Sarbadhikari; the President; Mr. Duke.*]

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"The Hon'ble Mr. Duke's assurance, I think relates to the improvement of the building, but my complaint is not limited to that alone, and I believe that even if the permanent improvement of the building be delayed, some temporary arrangement may be possible, and work would be facilitated, by providing suitable extra establishment for the Honorary Magistrates' Courts. If assurance to this effect is forthcoming, I am willing to withdraw the resolution."

THE PRESIDENT said:—

"I cannot say that there is any possibility of immediate relief, because it would have to take its turn with other projects."

The Hon'ble MR. DUKE said:—

"I understand, Sir, that the suggestion here is that the Honorary Magistrates are not utilised not merely because of want of room, but because of want of clerical establishment. This is a matter which has been particularly gone into, and I think that I can give the assurance that the Hon'ble Member desires, and my own impression is that the limitation is only in respect of room, and if it is found that there is sufficient room available, the difficulty can be got over."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"On that understanding I do not wish to press the resolution."

The resolution was then, by leave of the President, withdrawn.

The Hon'ble MR. DUKE introduced the following heads:—

Revenue—
XVII—Police.

Expenditure—
20. Police.

The Hon'ble MR. DUKE said:—

"I beg to introduce the Police head of the budget, No. XVII on the Receipt side and 20 on the expenditure side.

"Referring to the receipt side, head XVII, at page 33, I have to say that the fluctuations, which are not of great importance, are principally due to the extent to which preventive police, the cost of which is levied on private parties, have to be employed. The provision made for 1911-12 is normal.

"The figures for the expenditure side will be found under head 20 at page 52. In the grand total of the department which appears on page 55, there is a net increase of Rs. 1,22,000, and regarding this I may say that it still leaves the General Administration under a heavy obligation to the Police Department on account of reforms recommended by the Police Commission and accepted by this Government and the Government of India as imperative. The Government of India have made gradually increasing subventions to Provincial revenues in order to meet these reforms. These subventions, however, have now reached the maximum amount which will be given, but the reforms hitherto carried out still fall short of the standard which we have accepted, and it is estimated that we require Rs. 7,61,493 recurring and Rs. 14,31,932 non-recurring to complete the scheme. There is, therefore, a special obligation on the Government to proceed with the completion of the reforms without undue delay. As I will show, new schemes to the extent of Rs. 1,88,285 are budgeted for in prosecution of the scheme of reforms—

	Rs.
Calcutta Police.	
Creation of two Deputy Commissioners	16,650
Clerks in the offices of Deputy Commissioners	7,560
Bengal Police.	
Appointment of three Assistant Superintendents	3,600
Grade promotion of Sub-Inspectors	69,520
Grant of Re. 1 increment to constables (37,620)	37,620
Increase to complete the cadre of ordinary police in the Burdwan and Presidency Divisions	50,000
Force required to complete the cadre of the East Indian Railway Police—Government share	3,338
Total ...	1,88,285

"The creation of two Deputy Commissioners of the Calcutta Police replaces the posts of two Superintendents which have been abolished and completes that part of the scheme.

"Regarding the items under the Bengal Police, I would observe that two Assistant Superintendents shown at page 6 of the Schedule of new schemes is a mistake for three. Three Assistant Superintendents are being added in pursuance of the scheme for gradually bringing up the cadre to the strength recommended by the Commission. The cadre is still a great deal short and it will be a considerable number of years before it is brought up to the full strength. Two of the largest items, namely, the grade promotion of Sub-Inspectors in accordance with the scheme and the grant of a rupee increment to constables, have already been too long deferred.

"The third item of Rs. 50,000, to complete the cadre for the ordinary police in the Burdwan and Presidency Divisions, is much less than I should like to see, for it is almost equally necessary to make up the cadre throughout the province, but as we could only provide a portion of the expenditure, it was judged best to proceed with the more important divisions near the metropolis.

"In explaining the position as regards the introduction of the Police Commission reforms, I have gone into details and wandered from the general finance of the department to which I will now return. I have shown that the reforms aggregate Rs. 1,88,288, and it will be found that there are other new schemes which bring up the total shown at page 7 of the schedule to Rs. 4,87,064. Out of this, however, Rs. 1,50,000 for barracks for a company of military police appears in the Public Works budget, and the actual cost of new schemes in the Police budget is only Rs. 3,37,064. The reason why it has been found possible to introduce new schemes to this extent, while the net increase in the budget is only Rs. 1,22,000, is mainly due to the fact that there has been a great saving under grain compensation allowance and in the head 'Supplies and Services,' Rs. 82,000 having been saved under the former, and Rs. 76,000 under the latter head. Indeed, in the Bengal Police, as apart from the Presidency Police, there is an actual decrease in the budget, for while the total increase is Rs. 1,22,000, the increase in the Presidency Police above is Rs. 1,31,000.

"It will now be convenient to discuss the fluctuations under the several heads shown in the budget in order. As the figures concerned are large, it is only necessary to refer to fluctuations of major importance. The new schemes included in the schedule will be referred to under the several heads.

"Under the head 'Presidency Police' the only important variations occur under the first two heads, 'Police Commissioner (Superintendence)' and 'Calcutta Police.' Under both these heads there has been a considerable increase; under the former from Rs. 97,000 (Rs. 93,000 revised) to 1·41 lakhs, and under the second from 11·26 (10·91 revised) to 12·13.

"I have already referred to the increase on account of the appointment of two Deputy Commissioners in accordance with the Police Commission reforms. Another item of the same kind is the provision of Rs. 6,720 to substitute clerks for regular police officers in the offices of the Divisional Deputy Commissioners. Formerly, the clerical work was done by head-constables borne on the regular strength, and it was impossible to give proper effect to the reforms until these men were returned to their executive duties. The rest of the increase under the head "Police Commissioner (Superintendence)" is practically due to the temporary provision of an extra Deputy Commissioner in charge of the special branch of the Calcutta Police. Under the head "Calcutta Police," there is an increase of Rs. 87,000, or, as compared with the revised, of Rs. 1,23,000. The various new schemes undertaken will be found at page 5 of the schedule. The establishment for the special branch comes to Rs. 20,481. It has been found necessary to organise the machinery for special forms of crime in Calcutta and to take it out of the hands of the station police officers, and unify it under a single Deputy Commissioner as Superintendent. The expenditure does not represent the actual net increase, as most of the officers to be employed have already, for some time, been engaged in this work.

"The next large item (Rs. 22,920), for strengthening the High Court guards, has been included at the instance of the High Court, who drew attention to the

insufficiency of the arrangements for guard shortly after the murder of Deputy Superintendent Shamsul Alum.

"The main item of increase under Calcutta Police, is, however, the provision for additional military police in the neighbourhood of Calcutta. Originally, Rs. 2,00,000 was entered for non-recurring and Rs. 25,000 for recurring charges. The non-recurring figure has, however, been reduced to Rs. 1,75,000, of which one and-a half lakhs, as I have already explained, appears in the Public Works budget, and the remaining quarter of a lakh is to cover the cost of equipment. The Rs. 25,000 of recurring charges represents the cost for about four months of a company of military police, the full annual charge for which will be about Rs. 66,000. The necessity for strengthening the armed element in the Calcutta Police was strongly impressed on this Government by the recent Bakrid disturbances. In the circumstances of the case, the calling in of the military was undoubtedly necessary, yet it led to a considerable amount of criticism of the police, on the lines that it was not much to their credit that the military should have to be called in for what was after all a local and not a specially violent disturbance, and it certainly appeared to Government that it should not be necessary to call in the military except upon really grave occasions, but to attain this result it was necessary that the police should possess a sufficient armed force. At present, the Calcutta Police possess only a single company armed, and this is continually dispersed on guard and escort duties. It has accordingly been decided to provide a company of military police of the same character as those already enrolled in the Bengal Police, which will be kept together and will at all times be available to suppress any disturbance.

"Proceeding now to the Bengal Police budget under the head "Superintendence" there is a decrease of Rs 5,000. The principal factors contributing to the decrease are the transfer of charges amounting to Rs. 24,000, to the Special Department, and now included in the second item on page 54, with which I will deal later. On the other hand, there has been an increase of Rs. 20,000 provided for the reorganization of the offices of the Inspector-General and Deputy Inspectors-General, in accordance with the recommendations of the Ministerial Officers' Salaries Committee—*see* schedule, page 6.

"Under 'Salaries', that is, the salaries of superior officers, it will be observed that there is a saving of Rs. 14,000, as compared with the sanctioned figures for 1910-11. This is due to the transfer to the head 'Criminal Investigation Department' of the pay of one Additional Assistant Superintendent employed in the Special Department, and to the deputation of two Assistant Superintendents to the Calcutta Police as Deputy Commissioners. The decrease, in other words, is a paper one.

"'Establishment' shows an increase of Rs. 32,000 over the sanctioned estimate and Rs. 10,000 over the revised. Rupees 12,000 of this is accounted for by reorganization of the petty establishments in river districts which has long been very necessary. The balance is due to the completion of the revision of the ministerial establishment in District Superintendents' offices, in accordance with the recommendations of the Ministerial Officers' Salaries Commission.

"Of the decrease in 'allowances' amounting in all to Rs. 1,46,000, Rs. 82,000 is due to the omission of grain compensation allowances. Horse and conveyance allowance has been cut down by Rs. 16,000 in view of the actuals. There is a further decrease of Rs. 40,000 for house-rent which has now been transferred to contingencies. This, of course, is merly a transfer between heads and does not represent savings. In the main item 'Supplies and Services,' there is a decrease of Rs. 76,000 which is explained in the Remarks column. Of the items there noted, there are two in respect of which particularly heavy demands had to be met last year. Rupees 58,500 was required to provide the services of a steam-launch for the 24-Parganas, and Rs. 33,000 was set aside under this head out of the special grant of Rs. 3,17,000 for police reforms, to provide quarters for the 30 Sub-Inspectors added to complete the establishment. The increase in 'Contingencies' is, as explained above, principally formal and due to transfers from other heads. The lump provision for reorganization of Rs. 1,60,000 I have referred to, at any rate as regards the main items, in dealing with the Police Commission reforms.

[*Mr. Duke.*]

"The method of budgeting for the Criminal Investigation Department has been revised, and that head now contains all the charges of the establishment for dealing with political crime, with the result that an increase of Rs. 49,000 is shown on the sanctioned estimate for 1910-11. A greater portion of this increase, however, is nominal, and is due to the transfer to the Special Department of charges from other heads. Thus, Rs. 17,000 is a paper transfer of clerks formerly shown under "Superintendence," while Rs. 7,000 on account of "rent, rates and taxes" have been transferred from the same head, and Rs. 6,000 from "District Police" on account of pay of an Additional Superintendent attached to the office. The real increase in connection with the Special Department is thus about Rs. 10,000 only. This is accounted for by the house allowance of the Deputy Inspector-General (Rs. 1,295), who has been admitted to the Calcutta House Allowance Scheme, Rs. 3,000 on account of the difference of pay due to the promotion of the Deputy Superintendent attached to the department, and Rs. 5,000 for temporary establishment. There are certain other minor items, some of which are paper transfers, which bring the total increase under the Special Department up to Rs. 40,000. The balance is attributable to the Criminal Investigation Department proper and is practically covered by the new schemes costing Rs. 8,000 which are explained in the Remarks column at page 54. The Criminal Intelligence Bureau is a new organization for collecting and systematizing information regarding criminals which is already in the department, and getting it into a form suitable for communication to districts. The local allowances amounting to Rs. 3,850 for the men in the Finger Print Bureau are merely the same allowances which are granted to all the officers of the Criminal Investigation Department, but which had not hitherto been granted to these men as they were not formally attached to it. I do not wish to minimize the drain upon the revenues of this province which is occasioned by the necessity of dealing with political crime, and I will, therefore, explain that altogether it has occasioned increases in the heads relating to it over the charges of the current year of Rs. 70,300. Of this, Rs. 33,000 is accounted for by a Deputy Commissioner and the Special Department in Calcutta, and Rs. 37,300 by increases in the Bengal Police. Out of this, however, Rs. 20,000 is due to paper transfer of establishment, in Calcutta, and Rs. 30,000 to paper transfer of establishment, and rent, rates and taxes in the Criminal Investigation Department, so that the actual net increase on special political work is thus about Rs. 20,000. If this were all there would be little to complain of, but unfortunately it is not only in police charges that political crime is expensive."

The Hon'ble Mr. Duke also introduced the following heads :—

Revenue—

XVIB—Jails.

Expenditure—

19B. Jails.

He said :—

"I beg to introduce the head XVIB—Jails, XVIB on the receipt side and 19B on the expenditure side.

"*Jail manufactures.*—It will be convenient to deal with the receipts and expenditure under this head together. The figures are closely connected, as the expenditure chiefly consists of the cost of purchasing raw material, and consequently its fluctuations correspond closely with those of the receipts, *i.e.*, the outturn. The revised estimates for 1910-11 show some recovery on the figures for 1908-09 and 1909-10, but are still below normal. The reasons for this decrease were explained by the Hon'ble Mr. Gourlay in introducing the Budget last year as follows :—

'As the Council is aware, the Jails' principal customers are the several departments of Government, and owing to financial stringencies, these departments have curtailed their orders, with the result that there are at present large stocks in hand.'

"It is hoped that there will be a further recovery during 1911-12. In the first place, there will be a rise in the demand for our staple product—tents, and moreover special measures are under consideration for improving what

may be called the commercial side of jail industries, by securing a more regular demand from other departments, and by reorganizing the central depôt in Calcutta. It is necessary, however, to budget cautiously. The effect of these measures will not be fully felt during 1911-12, and even if they are put into force, the profits will not immediately respond to the change. The receipts have, therefore, been estimated at 9 lakhs, practically reproducing the revised estimate for 1910-11 of Rs. 9,10,000, and showing a decrease of half a lakh on the sanctioned estimate for the current year. A corresponding decrease has been budgeted for on the expenditure side, Rs. 6·7 lakhs only having been provided for purchasing materials as against 7·18 lakhs sanctioned and 5 lakhs revised for 1910-11. In other words, we are budgeting for a surplus of receipts over cost of 2·3 lakhs, practically the same as for 1910-11—2·32. The surpluses for recent years may be referred to in this connection :—

Year.	Receipts	Cost of raw materials.	Surplus
	Rs.	Rs.	Rs.
1905-06	11,98,310	9,21,395	2,76,945
1906-07	11,93,515	8,72,666	3,20,849
1907-08	11,42,380	8,32,050	3,10,330
1908-09	9,08,969	6,69,842	2,39,127
1909-10	8,44,174	5,89,277	2,54,897
1910-11	9,50,000	7,18,000	2,32,000
1911-12	9,00,000	6,70,000	2,30,000

"*Expenditure.*—Expenditure under "Manufactures" has been dealt with above.

"Under Administration proper the revised estimate shows a decline of 2·38 lakhs on the sanctioned. This is to be accounted for principally by the fall in the price of food-grains, which affects not only the head "Allowances" as in other departments (under this there has been a reduction of Rs. 10,000, from Rs. 21 to 11,000), but also diet charges for prisoners, which forms the heaviest spending head of the Jail Department. Under this head there has been a saving of 1·51 lakhs. In budgeting for 1911-12 it has not been thought safe to reduce the provision for diet charges quite so far, and 6·47 lakhs has been provided. This, however, means a saving of 1·08 lakhs on the provision for 1910-11. This makes up the greater portion of the saving on administrative expenditure as a whole, viz., 1·17 lakhs.

"A glance down the column 'Budget estimate for 1911-12' will show a considerable increase, distributed over a number of heads. These are for the most purely nominal, and represent the splitting of the lump provision of 1·39 lakhs which was made for the new Presidency Jail at Kalighat in 1910-11. The remaining fluctuations are for the most part of little importance. They are sufficiently explained in the Remarks column. There are no new schemes of over Rs. 5,000, and the minor new schemes to which it is proposed to give effect are sufficiently explained in the list on page 7.

Head of Increase.	Amount of increase due to Kalighat Jail.	Amounts due to other items as noted in Remarks column (page 51, amended draft Financial Statement).	
		Description.	Amount.
1	2	3	4
	Rs.		Rs.
Superintendents and Jailors	20,100	Additional Jailor, Khulna Jail ...	600
		Personal allowance of Superintendent, Juvenile Jail.	2,400

HEAD OF INCREASE.	Amount of increase due to Kalighat Jail.	AMOUNTS DUE TO OTHER ITEMS AS NOTED IN REMARKS COLUMN (PAGE 51, AMENDED DRAFT, FINANCIAL STATEMENT).	
		Description.	Amount.
1	2	3	4
	Rs.		Rs.
Medical establishment ...	2,304	Enhancement of pay of Sub-Assistant Surgeons and the appointment of a whole-time Sub-Assistant Surgeon for Khulna Jail.	2,280
		Scale of increased rate of rewards for medical subordinates.	2,036
Clerical, Mechanical and Educational establishments.	...	Pay of ten clerks for employment in 1st class District Jails.	4,800
Warder establishment ...	11,016	Extra guards in Presidency Jail ...	7,360
		Additional warders for Alipore, Buxar, Cuttack and Suri Jails.	4,080
Hospital charges ...	8,300		
Clothing and bedding of prisoners.	6,000		
Sanitation charges ...	6,100		
Charges for moving prisoners	2,000		
Miscellaneous services and supplies.	14,600	Additional electric lights in Kalighat Jail and in the Alipore and Presidency Jails.	16,000
Contingent charges ...	9,250		

"Turning to the *civil works* with which the Jail Department is concerned the revised figures for 1910-11 show an estimated expenditure of Rs. 1,67,900. For 1911-12 there is a rise to Rs. 4,99,800, which is accounted for by the provision of Rs. 3,70,000 for the new Central Jail at Monghyr. Rupees 2,00,000 was originally provided for this work in 1910-11, and the necessity for the scheme was explained in introducing the budget for that year. I may here mention that owing to the very great increase of the jail population in the provinces it was found that the provision of the Kalighat jail was not nearly sufficient to permit of the old Presidency Jail being removed, and that it would not be safe or possible to abolish the Presidency Jail until another new jail of first class size was built; and, as a matter of fact, the abolition of the Presidency Jail, the construction of the Monghyr Jail, and of course the Victoria Memorial which awaits the removal of the Presidency Jail,—all hangs together in one chain. The scheme has unfortunately been considerably delayed owing to difficulties which arose with the Government of India as to the financing of it. After a considerable correspondence the Secretary of State has now accorded his provisional sanction to the scheme, and detailed plans and estimates have been prepared and have been submitted to the Government of India for obtaining the final approval of the Secretary of State. At the same time the Secretary of State is being moved to accord sanction to proceed with the acquisition of the land and other preliminary arrangements in advance

of final sanction to the plans. Orders on this point are expected shortly. Owing to this delay it has been found impossible to utilise any of the Rs. 2,00,000 originally provided, and the revised estimate for 1910-11 is blank. The amount originally provided for 1911-12 was Rs. 2,00,000. This was on the assumption that the Local Government would provide Rs. 2,00,000 yearly on account of the scheme until completion, and that the balance would be found from the Government of India by loan. The terms of the Provincial settlement having been revised, this method of financing the scheme has been dropped, and it has been decided that the whole cost of the building operations must be found by the Local Government, at any rate so long as the provincial balances permit. It will accordingly be necessary to provide as much as the Public Works Department can spend from year to year to bring the building to completion in as short a time as possible. The original rough estimate for the scheme was Rs. 32,57,000. Every effort has, however, been made to observe economy, and this has been reduced to Rs. 26,00,000, including Rs. 54,000 for the acquisition of the land.

"It is proposed to spread this over four years, the major portion of the work being finished in 1913-14, leaving certain subsidiary buildings to be finished in 1914-15. The Public Works Department estimate that they can spend during the year 1911-12 Rs 3,70,000, including Rs. 54,000 for the acquisition of the land. This sum has accordingly been provided.

"The remaining civil works call for little comment, the greater portion of the expenditure being on works in progress, provision for which was made by the Council in 1910-11. It is hoped to finish the new Presidency Jail at Kalighat and the extension to the Khulna Jail. These are the two principal works in progress. Rupees 10,000 has also been provided for the completion of the jail hospital at Krisnnagar. As was pointed out by Mr. Gourlay last year, the accommodation at sub-jails in the mufassal is very inadequate. Provision has been made to complete three projects of this nature, Banki, Banka and Magura—which were started in 1910-11.

"Unfortunately owing to the pressure of other schemes, it has been found impossible to take up any new sub-jails, though several await funds.

"There remain only three new projects—

"(1) Quarters for European warders, Alipore Central Jail ... Rs. 15,000

The existing staff of six European warders is at present accommodated in temporary quarters at the Kalighat Jail, there being no accommodation whatever available at Alipore. This arrangement obviously cannot continue.

"(2) Reconstruction of barracks, Chapra Jail ... ... Rs. 47,800

The condition of the old barracks in the Chapra Jail is unsafe and their reconstruction is an urgent necessity. The scheme will cost in all nearly Rs. 1,00,000 (Rs. 96,000), and half of this has been provided for 1911-12.

"(3) Reconstruction of wall, Bankipore Jail ... ... Rs. 13,000

"The existing surrounding wall is seriously unsafe.

"This has been taken up because it was reported that the existing wall was seriously unsafe and a determined rush of the prisoners might overthrow it."

[*Mr. Küchler.*]

The Hon'ble Mr. Küchler introduced the following heads:—

Revenue—

XIX—Education.

Expenditure—

22. Education.

He said:—

"I have the honour to introduce the consideration of the Educational Budget for 1911-12.

"Education being chiefly a matter of expenditure, the revenue side of the budget is as a rule of little interest, and the only point to which attention need be called is the considerable increase in the estimate of fee receipts for Government colleges and schools—general, on that of last year. This increase, which amounts to Rs. 57,000 and is based on the actuals for the last nine months, indicates of course a larger number of pupils reading in these institutions.

"Before proceeding, however, to the expenditure side of the budget, I may be permitted to refer at this stage to the Imperial grant of 24½ lakhs for education which is shown at page 26 of the Financial Statement under the head of "Adjustments." Though naturally coming under the revised estimate of Bengal Provincial Receipts for 1910-11 it may practically be regarded as part of the educational income for the next two financial years, within which period it is stipulated that the amount shall be spent. The most convenient course is therefore to give a statement here of the specific purposes for which the grant has been earmarked by the Government of India and of the sums which it has allotted for these purposes, reserving further comment on the actual disposal of the grant within these limitations for the appropriate heads of educational expenditure. The statement of authorised distribution is as follows:—

	Rs.
(1) *Technical and Industrial*—	
Sibpur College equipment	50,000
(2) *Primary Education*—	
Primary school buildings and equipments ...	2,00,000
(3) *Hostels*—	
Calcutta Collegiate Hostels	6,00,000
Mufassal College Hostels	3,00,000
Do. School Hostels	3,50,000
(4) Presidency College	8,00,000
(5) European Schools	1,50,000

"Passing now to the expenditure side of the budget I propose to explain briefly the more important educational developments which are represented by the new budget provisions for the year 1911-12. It will be noticed in the first place that apart from the proposed expenditure due to the Government of India grant, the total budget allotment for 1911-12 falls short of the corresponding estimate for 1910-11 by Rs. 91,000. This deficiency is more than accounted for by the absence of the provision of 1 lakh which was made in last year's budget for the construction of Guru Training Schools, and which it has been found inexpedient to include in the budget for 1911-12. Leaving this item out of account, there has been an increase of educational expenditure on other objects of Rs. 9,000, and in the present state of provincial finances this is perhaps all that could be expected. Education must therefore be more than grateful to the Government of India for its liberal grant which renders possible the execution of many educational projects of great importance, even though they will mainly find immediate expression in bricks and mortar.

"The chief features of the present budget under the various educational heads are as follows:—

"(1) *University.*—A grant of Rs. 1,60,600 has again been made by the Imperial Government to the University of Calcutta, but the conditions attached

to its distribution have been slightly altered. In previous years Rs. 80,000 was set aside for grants-in aid to affiliated colleges, Rs. 50,000 for administration, inspection and maintenance of the Law College, and Rs. 30,000 for the University Building Fund. With regard to the grant for 1911-12 it has been stipulated that only Rs. 50,000 shall be applied to direct University expenditure, the balance of Rs. 1,10,000 being distributed in grants-in-aid to the affiliated colleges.

"(2) *Collegiate Education.*—A further step will be made in the year 1911-12 towards the realisation of the scheme initiated in the year 1907, for the strengthening of the staff of Government Colleges. Under this scheme, seven new appointments in the Indian Educational Service in connection with professorships of Government Colleges still remained to be filled at the commencement of the present calendar year, although temporary arrangements had in the meantime been made for the teaching of the subjects for which these professorships were created. It is expected that four of these posts will be filled in the course of the present year, and corresponding provision has accordingly been made in the budget.

"A large number of new appoinfments in the Provincial Educational Service have under the same scheme been recently sanctioned, and although the new men appointed have, in accordance with the usual practice, been placed in the lowest grade of that service, the actual appointments had to be so distributed so as not to disturb the existing proportion of the numbers in the various grades. The cost of this part of the scheme, which has also incidentally benefited the present members of the service owing to the posts so created being filled by general promotion is given at page 8 of the schedule of the new scheme at the end of the Financial Statement. It amounts to Rs. 27,360. The other items under the same head, namely, Rs. 4,800, for two temporary lecturers, and Rs. 2,400 for acting promotion of two appointments, are due to the fact that three new posts in the Indian Educational Service are still unfilled. In the same place will be found the provision made for other professorships and lectureships which it has been found necessary to create over and above those contemplated in the original scheme. In all these latter cases, which include professorships and lectureships at the Presidency, Sanskrit and Ravenshaw Colleges, temporary posts were in the first place sanctioned by Government, and the provision in the budget for 1911-12 indicates the necessary cost of substituting for these temporary posts permanent appointments either in the Provincial Educational Service or the Subordinate Educational Service. The latest additions were two lectureships in English at the Presidency College sanctioned in the latter half of last year for the purpose of improving the tutorial work done in that institution.

"As a matter appertaining to collegiate education, the grant of the Government of India towards the improvement of the Presidency College, may also be mentioned. Out of the total grant of 24½ lakhs, 8 lakhs has been assigned by the Government of India for this purpose. It is not yet certain whether any conditions will be imposed by the Government of India as to the way in which this sum is to be applied, but, if not, Rs. 4,02,963 will be utilised for the completion of the Physical laboratory, the construction of Physiological, Botanical and Geological laboratories and the acquisition of a small portion of the land which is required to complete the necessary ground area for this building. The assignment of the balance has not yet been finally determined.

"(3) *Technical and Industrial Education.*—There is little variation from last year's figures in the budget provision for 1911-12 under this head.

"The term of five years for which the peripatetic mining classes had been originally sanctioned came to an end last November, and the whole question of their continuance and possible development was brought under revision. Though certain defects had emerged in the light of the experience gained during this period, notably their conflict with the permanent classes at Sibpur in providing a much easier avenue to the managers' certificate given under the Mining Act, there is no doubt that they have done good work. Supplying as they do an immediate want in training men actually employed in mines for positions of responsibility. They are in fact more popular with mine-owners than the permanent classes at Sibpur, and it has been decided to continue them though in a slightly different form for a further experimental period. After

consultation with the chief mining authorities it has been considered preferable to have, instead of a single full-time peripatetic lecturer, four part-time lecturers at definite mining centres, and certain mine managers specially qualified on account of their scientific training have been selected for this work. The allotment for these peripatetic classes was formally included in the Sibpur College budget. It is now shown separately, and as the altered system is of the nature of a fresh project it appears this year in the schedule of new schemes on page 10. The cost, namely, Rs. 8,786, shows a considerable reduction on the annual expenditure of Rs. 12,431, formerly incurred. When the experimental period comes to an end, the question of these classes and their relation to the mining instruction given at Sibpur will have to be carefully considered, but everything points at present to the likelihood of their continuance and further development. They have this undoubted advantage in comparison with other schemes of technical instruction, that the problem of the future employment of their passed students does not enter into consideration. The pupils who attend these classes are already in employment, and not only is their employment rendered more secure by the further knowledge they thus acquire, but they also become better fitted for more responsible work. In the case of an institution such as the Serampore Weaving Institute the position is different. A reference to this institution is perhaps out of place in the present statement as it has not been found necessary to increase the budget allotment for industrial and technical schools under which head it finds its place. At the same time it is not intended that its natural development should be suspended during the coming year, and in connection with that development there arises the important question of the prospects of employment of the passed students of the institution. The Weaving School at Serampore stands in this respect entirely by itself. It does not, as the Sibpur College, the Bihar School of Engineering and the various technical schools undertaking the ordinary sub-overseer courses, provide an avenue to Government employment. On the contrary, it was established by Government to meet the alleged wants of a purely private industry for technically trained men, and its justification will rest largely on the extent to which those who have gone through its courses and satisfied its tests find subsequent employment. The present is therefore a critical period of its existence, inasmuch as the first batch of students has recently passed out from the institute, and it is to be sincerely hoped that private employers and capitalists will do everything in their power to give these young men a start in life. The experience which we shall gain in the present instance will undoubtedly be of value, inasmuch as it will bring into prominence some of the important factors determining the proper rate of progress in the matter of technical education. One of these factors is obviously the prospect of the development of the industries corresponding to the courses of technical instruction which it is proposed to provide, and the consequent chances of employment of those who make use of the facilities for education thus offered. Unemployment is even a more serious evil in the case of the technically trained than of those whose education has been purely literary, and in considering any scheme of technical instruction the possibility of a danger of this nature has to be carefully borne in mind. I should add that so far as the lower class at Serampore is concerned, viz., that for the instruction of actual weavers, this question does not arise. This class, in that it deals with men already in employment, stands on the same footing as the peripatetic mining classes, and has up to the present been attended with a considerable measure of success.

"Before leaving the subject of technical and industrial education I must refer to the Imperial grant of Rs. 50,000 for the Sibpur College equipment. It has not yet been found possible to determine exactly how this money is to be spent, but a considerable portion will be devoted to the improvement of the equipment of the new classes for Industrial Chemistry.

"*Hostels.*—The great interest manifested of late in the question of the provision of hostels for college students and schoolboys finds a reflection in the present budget. Last year a scheme for the appointment of well-qualified and adequately paid hostel superintendents was sanctioned by the Government of India, and the scale of remuneration contemplated in this scheme

will be introduced in the coming financial year. The intention is to secure the services of some of the best men available on the staffs of Government schools and colleges for the work of supervision of the students living in the hostels connected with these institutions. The budget provision of Rs. 17,800 shown on page 10 of the schedule of the new scheme represents the cost to Government for the necessary extra allowance. It is of the nature of a happy coincidence that, simultaneously with the provision of more satisfactory superintendence, it will now be possible, with the help of the liberal grant of the Government of India, to meet the present crying want for suitable hostel accommodation for the students not only of Government but also of private institutions as well. Of the Government grant six lakhs are earmarked for college hostels in Calcutta, three lakhs for mufassal and three and a half lakhs for zilla and aided school hostels. With regard to the Calcutta grant, nothing has of course been settled as yet as to its distribution. Possibly the most satisfactory procedure will be to appoint a small committee to determine the principles on which the grant shall be given and to invite applications from institutions which are willing to subscribe to these conditions. It may, I think, be taken as practically certain that one of these conditions will be the appointment of well-qualified superintendents. In the matter of the provision of zilla school hostels we are fortunately in the state of greater preparedness. The following list shows the projects for such hostels which have already been prepared and are ready for execution, and which have either been approved by or are about to be submitted to Government:—

(1) Hostel building for Hindu students of the Darjeeling High School.

Hostel building for Bhutia students of the Darjeeling High School.

One Hostel Superintendent's quarters for the two hostels.

(2) Construction of a hostel for the Northbrook School at Darbhanga.

(3) Barrackpore—Construction of hostel for the Hindu students of Barrackpore Government School.

(4) Hazaribagh—Construction of a hostel for the Hindu students of the zilla school together with Superintendent's quarters.

(5) Hostel building for Purulia Zilla School (Hostel buildings for Hindus and Muhammadans).

(6) Hostel buildings for Bhagalpur Zilla School.

(7) Improvement to hostel buildings of Birbhum Zilla School.

(8) Proposed new Muhammadan Hostel building for Barasat Government School.

(9) Hostel buildings for Monghyr Zilla School.

(10) Hostel accommodation for the Patna City School.

(11) Provision of hostel accommodation for the Gaya Zilla School.

(12) Provision for hostel buildings for 24 Hindus and 6 Muhammadans for Palamau Zilla School.

One Hostel Superintendent's quarters.

"The total cost of these projects amounts to Rs. 3,35,187.

"The question of the provision of hostels for mufassal colleges requires further consideration.

"I may refer here to a slight error which has crept into the schedule of the new scheme. On page 90, Rs. 6,658 is given as excess of the cost of maintenance of the new Madrasa hostel over the fees paid by the students. The figure there given is however the total maintenance charge; the excess amounts only to Rs. 1,032.

"*Inspection.*—It will be noticed that the provision under this head on page 56 of the budget has risen from Rs. 8,33,000 to Rs. 8,60,000, but I am glad to reassure those Hon'ble Members who regard with some disfavour this item of expenditure that the enhancement is not due to any increase in the number of Inspectors, but almost entirely to the betterment of the pay of the

Resolution.

[*Babu Braja Kishor Prasad.*]

Sub-Inspectors who were recently transferred from the District Boards to the Department. The charge on Provincial revenues for the year 1911-12 arising from the regrading of the Subordinate Educational Service, which is necessitated by the admission of these officers, accounts for the greater part of the sum of Rs. 68,800 for which provision is made on page 7 of the schedule of new schemes, the balance, *i.e.*, Rs. 12,200, being required for the stipulated promotion after a certain number of years, of those inspecting officers who were appointed directly to the Department in 1907 in connection with the scheme for the strengthening of the inspecting agency. As has already been indicated in answer to a question put in Council, it is possible that the Sub-Inspectors may later on be placed in a separate cadre, but the cost of such a scheme will certainly not be less than that for which provision has now been made.

"Finally, it is necessary to make a brief reference to the subjects of primary education and European schools, as they are included in the application of the special grant from Imperial revenues. No detailed assignment of funds has as yet been made under these heads, but there are many demands under both, and there will be no difficulty in spending the money usefully within the allotted time."

The Hon'ble Babu Braja Kishor Prasad moved the following Resolution:—

> This Council recommends to the Lieutenant-Governor in Council that provision be made in the Budget for the following additional grants under the heading "Education":—
>
> (1) Rs. 12,000 for assisting the Bhumihar Brahman College of Muzaffarpur towards meeting its current expenses,
>
> (2) Rs. 14,000 for strengthening the tutorial staff of the Government and Zilla High English schools in Bihar,
>
> (3) Rs. 24,000 for assisting the public High English schools at the head-quarters of the subdivisions in the district of Bihar,
>
> by making, if necessary, a reduction of a sum of Rs. 50,000 under the heading "Inspection" of the major head of "Education."

He said:—

"YOUR HONOUR—

The resolution which I propose to move runs thus:—That this Council recommends to the Lieutenant-Governor in Council that provision be made in the budget for the following grants under the heading 'Education':—

> (*a*) Rupees 12,000 for assisting the Bhumihar Brahman College of Muzaffarpur towards meeting its current expenses;
>
> (*b*) Rupees 14,000 for strengthening the tutorial staff of the Government and Zilla High English schools in Bihar;
>
> (*c*) Rupees 24,000 for assisting the public High English schools at the head-quarters of the subdivisions of the districts of Bihar, by making, if necessary, a reduction of a sum of Rs. 50,000 under the heading 'Inspection' of the major head of 'Education.'

"This resolution concerns the secondary education in Bihar and the Bhumihar Brahman College of Tirhut. At the general discussion of the budget last year, I brought up these matters before this Council, and I am glad to note that the Hon'ble Mr. Küchler, on behalf of the Government, was pleased to observe in his speech that he was in full sympathy with me as to the necessity of improving secondary education, and that the matter was under the consideration of the Government. According to the rules, the final discussion

Resolution.

[*Babu Braja Kishor Prasad.*]

of the budget is limited only to the offering of any observations the Members may wish to make on it, without being permitted to move any resolution, and as the entries in the budget cannot be altered or modified at that stage of the discussion, the Government could not possibly be expected to do anything in the matter, even if it had any mind to do. It is, therefore, Sir, that I bring forward my resolution this year at the proper time in the hope that the Government may be able to do something for us.

"It is admitted on all hands that Bihar is backward in education, and this backwardness is principally due, I may suggest, to the want of facilities of education. Educational institutions are very few in Bihar compared with those in her sister province of Bengal. The average number of High English schools in a Bengal district is 18, while that of a Bihar district is only 6. But for this the Government is not responsible. The people of Bihar have not shown the zeal and earnestness in this matter which we find in our Bengali brethren. However, it is not the number of institutions with which my resolution is concerned. It is rather with the deplorable conditions of the High English schools and of the Tirhut College of Bihar.

"I take up the schools first. There has been a gradual weakening of the teaching staff in our Zilla schools. Almost all the Zilla schools are more or less in the same predicament, and this very materially affects us, the Biharis. I shall illustrate my point by taking up the case of one of these Zilla schools, *viz.*, the Northbrook School of Darbhanga, for time would not permit of taking up all. This school is the only school in the southern part of the town where the civil station is situate. The Darbhanga Raj School is at a distance of no less than five miles from the civil station. The Northbrook School consists of 10 classes and 15 teachers, including 2 Maulvis, 2 Pundits and 1 clerk, who also works as a teacher. The 7th B class is the lowest class to which infants are admitted. It already consists of 29 or 30 students, so that now no more students can be admitted into it. The University regulations of 1906 lay down that 'no teacher should be allowed to teach—

(*a*) in the Entrance class or second class or any section thereof more than 50 pupils at the same time;

(*b*) in any of the classes from the third to the sixth or any section thereof, more than 40 pupils at the same time;

(*c*) in either the 7th or the 8th class or any section thereof, more than 30 pupils at the same time.'

"If a sufficient number of students want to take their admission, the only alternative the Headmaster has to adopt is to divide the class into two sections, so that each may accommodate the appointed number of students. But, for this, extra hands are required. You will be surprised to hear, Sir, that no less than 60 students have been refused admission in one class, viz., the 7th B class of the Northbrook School for want of room. The Headmaster is unable to divide classes into sections, for he is not given sufficient number of teachers. In the beginning of the last month, he reported the matter to the Inspector of Schools, saying there was a great rush of students; but, Sir, as yet no arrangement has been made. All classes of people in the civil station are in a peculiar predicament. They cannot send their boys to any other schools, for there is none near about. There is not even a Middle English school at Darbhanga. You can judge, Sir, their feelings. There was a time in Bihar when guardians did not care to educate their children, and now a time has come when we find that when they send their boys, the school authorities do not take them for want of room. How long, Sir, is this state of affairs to continue? Similar is the case with some of the other classes, and more or less the same state of affairs prevail in most of the Zilla schools of Bihar. I have been, Sir, earnestly pressed by the people to bring these matters to your notice, and I do it with all the force I can command. The teaching staff should be strengthened without any further delay, but for this sufficient money is required.

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"Formerly, there used to be no less than four graduate teachers in a Zilla school in Bihar, when the teaching was very simple. But, now when it has been made more complex by the University Regulations, we find hardly two graduates in a Zilla school in Bihar. Only the other day the Hon'ble Mr. Gourlay replying on behalf of the Government to a question of mine on the subject, said: 'It is a fact that there are fewer graduates in the Zilla schools in Bihar at the present time than there were ten years ago.' And this is explained by him, I may say rather, explained away, by saying that the supply of Bihari graduate teachers has been insufficient. This is no explanation whatever. If Bihari graduates are not available, I see no reason why Bengali or other graduates should not be appointed, and why for want of Bihari graduates, if it be a fact at all, the education of the Biharis should be allowed to suffer. There are many departments of the public service in Bihar, such as the medical and the engineering departments, which are filled up by outsiders, as competent Biharis are not available. The principle, Sir, should be that in Bihar qualified and competent Biharis should be preferred to equally qualified and competent non-Biharis, and not that where Biharis are not to be had the work should be allowed to suffer. Here I think it my duty to offer the grateful thanks of the people of Bihar to the Government, for its genuine efforts in appointing as many Bihari graduates as possible in the Education Department, on an initial pay of Rs. 50 a month. This has given a great encouragement to the Biharis to take to the educational line, and if this policy is continued, Bihar would certainly make much progress.

"Before April 1909, the English syllabus required English teaching in the lower classes of a Zilla school for 4 hours a week; but, by Resolution No. 109, dated the 20th April 1909, the teaching of English in those classes has been extended from 4 hours to 8 hours, in other words, it has been doubled. But, Sir, has the Government made a corresponding arrangement for a sufficient number of English teachers to cope with the work. Are not the teachers already serving in these schools sufficiently overworked? Do we not find remarks to this effect by the Inspector of Schools as regards the teachers of most of the Zilla schools of Bihar?

"Again, we find that teachers from Zilla schools are constantly deputed for training to a training college, and generally two or three months elapse before their places are filled up. This has a very baneful effect on the teaching imparted in our schools. The continuity is broken up. This also can be remedied by having a sufficient number of teachers, and for it we require money. The Zilla schools should serve as models to other schools in the district. But my resolution does not aspire to that height. It only requires provision to be made for the bare necessities.

"I purposely refrain here from saying anything about the pay and prospects of teachers, for it does not directly touch my resolution. I content myself with saying only this much, that our teachers are the most ill-paid officers of the Crown, but at the same time the most responsible officers. The Government should lose no time in taking up this matter in right earnest, and do all it can to improve the pay and prospect of our teachers.

"We urge, again, Sir, as we did last year, that the expenditure on education in Bihar should be commensurate with its contributions to the revenues raised in the Lower Provinces. We have a right to it, and we urge that right in this Council. If we add two teachers more to some of our Zilla schools in Bihar, I think we would require something like Rs. 14,000 for it, and the Government should not grudge giving this sum for such an important purpose.

"I now take up the case of the public or aided schools at the head-quarters of most of the subdivisions of the districts of Bihar. The conditions of these schools are very pitiable. They are financial wrecks. And most of them are only trying to keep their heads just above the water. Almost all of these schools are managed by committees, under the supervision of the subdivisional officers. There can be no doubt that one High English school in a subdivision of Bihar is but a bare necessity. The Government and the people should try to maintain these institutions in efficient conditions. It is very kind of the subdivisional officers to interest themselves in these institutions, and it is mainly

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through their efforts that these schools are going. But unless the Government comes to their aid, I do not think they can continue to exist in any good condition. I can speak, Sir, from personal knowledge about 5 or 6 of these schools, *viz.*, those at Siwan, Gopalgunj, Hajipur, Sitamarhi, Samastipur and Barh. In the beginning of the last year, the Hajipur School would have ceased to exist, as the funds were not sufficient to keep the school going even for a month, had not the subdivisional officer, Mr. J. S. Mackay, succeeded in collecting Rs. 1,800 for it. For the Samastipur School the subdivisional officer, Mr. Luby, has been able to raise Rs. 6,000, out of which about Rs. 1,300 have been realized. The poor middle classes of Biharis are doing all they can to keep up these institutions, and I hope the Government will supplement their efforts. Unless these schools are equipped with good staffs of teachers, good libraries and good buildings, we cannot expect good results from them. The needs of these schools are the most pressing, and some provision should be made by the Government to relieve these needs. We would not have had to trouble the Government, if our own men, I mean the richer class, would have given the least attention towards these things. Unfortunately, in Bihar, as compared with Bengal, the distribution of wealth is very unequal. A few are rich beyond measure, while the majority have got nothing. There is, properly speaking, no middle class in Bihar, as we have a clearly defined middle class in Bengal. The Hon'ble Mr. Küchler has expressed his full sympathy with the condition of secondary education in Bihar, and we entertain every hope that that sympathy will not prove itself to be a sympathy in mere words but in action also. I would most earnestly urge on the Government the necessity of allotting Rs. 24,000 for helping these most useful institutions.

"I now come to the last, rather the first part of my resolution, *viz.*, that which deals with the Bhumihar College. I pointed out last year, while discussing this subject, that, in the four years from 1907 to 1910, out of a total Government grant of Rs. 3,44,644 given to the individual colleges of this province, not a farthing went to the Tirhut College. I urged last year for a grant to the Tirhut College, but it was refused. I will now examine the grounds on which the claims of Bihar colleges, especially that of Tirhut College, are badly treated. The reasons are contained in the Budget speech of the Hon'ble Mr. Küchler. He concedes that it is perfectly true that 'if we compare the population of Bihar with that of Bengal, the amount of public money spent on education in the former appears to be inadequate,' but adds further that this is not a sound basis of calculation. He ascribes the backwardness of Bihar to the fact, or the theory, that the Biharis have hitherto shown no earnestness to make use of the few educational institutions in Bihar. He then proceeds to compare the number of University students reading in the two parts of the province and the fees paid by them, which he says should be the true basis of comparison. And thus by this method of calculation he tries to show that the grant made to the Bihar colleges, though apparently insignificant, is not largely disproportionate to the corresponding student population. But, Sir, even taking all that has been said by Mr. Küchler to be true and correct, does it meet the case of the Tirhut College? Has this college received anything from the Government, either by way of maintenance, building or hostel grants, during the eleven years of its existence? If it has not, can any comparison on any basis be made? How is it, Sir, that many private colleges in this province are receiving ample support from the Government, while the claims of the Tirhut College are being ignored, even in face of the recommendations of the local officials who know the needs of the college well. The Hon'ble Mr. Küchler said that no evidence had been produced before him to show the necessity of the existence of a first grade college in Tirhut, and that, if he could be convinced of it, he would recommend to Government the application of the college authorities for a grant sufficient for the working of a first grade college. But, unfortunately for the college, it appears to me, Sir, that the figures about it, relied upon by the Director of Public Instruction in support of his position, were not sufficient and strictly accurate. I here give you the figures and the opinions of the officers on the spot which would prove that the existence of the Bhumihar Brahman College, as a fully staffed

and fully equipped first grade college, is a necessity in Tirhut. This college has been in existence as a second grade college since 1899-1900. It was affiliated up to the B. A. degree in 1901. During the short period of its existence, it has turned out 110 undergraduates and 21 graduates. It has on its rolls 33 first year, 54 second year, 7 third year and 6 fourth year students. Now, Sir, do these figures compare unfavourably with the figures of the Dublin University Mission College of Hazaribagh which has received as much as Rs. 37,000 as Government grants in the four years from 1907 to 1910? This institution was affiliated as a second grade college in 1899, and as a first grade college only in 1907. I would like the Director of Public Instruction to tell this Council if the principle enunciated by him for the making of Government grants holds good everywhere, or only with respect to the Tirhut and the Bihar National College. Will the Director of Public Instruction be pleased to lay the figures of the Hazaribagh college before this Council, so that the Hon'ble Members may be able to judge for themselves? If we compare the number of students in, and the graduates turned out by, the two colleges, we shall find that the Hazaribagh College is much worse off than the Tirhut College, and yet, according to the standard of the Director of Public Instruction, the one is getting nothing while the other is receiving grants lavishly. I do not, Sir, for a moment grudge the grants to the Hazaribagh College. It may be given more, if necessary. What I want is that the Tirhut College should also have its own share.

"Last year Mr. Greer, Commissioner of Tirhut, at the time of the laying of the foundation stone of a building for the Bhumihar College by His Highness the Maharaja Bahadur of Benares, said—'The object of the Government in creating this new division (Tirhut) is to improve more effectively the condition of the people of this part of Bihar Their foremost want is education, not only higher education, but also primary and female education .... It is imperatively necessary for Biharis to take advantage of higher education to the fullest extent, and, therefore, the maintenance of this college is indispensable ... I hope that any appeal to people and Government for the help of the college will be duly responded to." And, Sir, the people have duly responded. The Maharaja Bahadur of Benares and the Maharaja Bahadur of Darbhanga have each contributed a handsome amount, and the trustees of the college have collected a large sum from the people. We have now to see if the Government responds to the appeal. The people have done their part of the duty, and let us see if the Government is prepared to do its own. A grant of Rs. 1,000 a month to this college is not much.

"If we now examine the position taken up the Director of Public Instruction in his last budget speech, I think we shall be able to show its untenableness, and I hope the Hon'ble Mr. Küchler will pardon me, if I, as an old pupil of his, try to show the logical fallacy contained in his arguments. Mr. Küchler bases his opposition to the grant of the due shares of the Government aid to the Bihar colleges on the basis of the numerical strength of the students, particularly in the B. A. classes. He says there are very few students in the B. A. classes of the Tirhut and the Bihar National College, and so the Government would not like to make any grant to these colleges".

The Hon'ble Mr. Küchler said:—

"May I rise to a point of order, Sir? I do not think the resolution which the Hon'ble Member has brought before the Council is concerned with the Bihar colleges at all. It seems to me that the resolution deals entirely with the Bhumihar Brahman College. I doubt whether the Hon'ble Member is in order to speak about the Bihar colleges in general".

The President said:—"I do not think that the Hon'ble Member is in order in referring to other Bihar colleges, except by way of illustrating his arguments."

The Hon'ble Babu Braja Kishor Prasad said:—

"I was simply referring to the Bihar colleges in order to give illustrations. However, Sir, I have very nearly finished my speech.

"First make them efficient, and then the Government help will be forthcoming. But, Sir, is not this argument a very good sample of what the

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logicians would call, an argument in circle. How can you make a college efficient without sufficient funds? and how can you get a sufficient number of students in your college unless it is in an efficient condition? I, who was a college student only ten years ago, can tell you from personal experience how students avoid inefficient institutions. Undoubtedly, the bad condition of our Bhumihar college is due to a lack of adequate funds. We cannot adequately pay our professors; we have no hostel accomodations, and we have no good buildings. Remove these wants, and our college will become as efficient as any other college in this province, and you will find in it as many students as in any other college. A practical illustration of this principle is the Hazaribagh college. If we compare the figures, we shall find that, before the Government grant, the condition of this college was worse than ours. The Government came to its help, and its present prosperity dates from that time.

"Education, Sir, as I have often said in this Council, is the most important concern of the people and of the State. It should form the first charge on the public revenues of a province. We are very fortunate that the Imperial Government has made, this year, a grant of about 24 lakhs for education in this province, though it has laid down its own conditions for its expenditure. However, besides this amount, our Provincial Government has to make its allotment. And if we want Rs. 50,000 for the schools and one of the colleges of Bihar, would Your Honour refuse our request. The figures I have given in my resolution are not exact. If the Government increases or decreases the amounts, I shall have no objections whatever, my simple object being to secure adequate financial aid to the High English schools and the Tirhut College of Bihar. If you approve, Sir, of the positive part of my resolution, I have every hope that you will find out this amount by accepting the negative part of it or by any other means. There is no particular reason for my selecting the heading 'Inspection' for a reduction of Rs. 50,000, except the fact that I find from the draft Financial Statement that you have been able to make a saving of a considerable sum from the amount budgeted under this head last year, and I hope you may well be able to make the same saving next year, so that we may safely reduce the amount even now by Rs. 50,000 which would not materially affect it.

"With these few words, Sir, I beg to commend the resolution to the acceptance of the Hon'ble Members."

The Hon'ble Mr. Küchler said:—

"Your Honour,—I think in the first place I ought to say it is a great pity that the hon'ble member did not allow me to see a copy of the notes which are the basis of his speech. As it is, I have not been able to verify the actual cases which he quotes. It is difficult to answer, on the spur of the moment, individual cases in which there is said to be some defect in the management of a particular school, unless one has an opportunity of making an investigation into the facts. With regard to the points raised in the hon'ble member's speech, I propose to take them up in the same order as he has done, *viz.*, I will deal first of all with the question of the adequacy of the tutorial staff of Government schools in Bihar.

"If we take this subject generally, it must be obvious, I think, to every dispassionate critic, that we cannot possibly take any steps to raise the standard of officiency in Bihar schools without at the same time taking some measures with regard to other schools in the Province. The tutorial staff and the teaching staff generally in Bihar schools is at present sufficient to teach the courses up to the ordinary matriculation standard. I admit of course that this standard may be unduly low, especially for Government schools. But at the same time the terms of service for Bihar teachers and the equipment of schools in Bihar are exactly the same as they are in other parts of the Province. It would be obviously unfair, to apply to the improvement of Bihar schools, money which was not at the same time forthcoming to effect a general improvement in the standard of secondary education throughout the Province. I do not think that the individual instances which the hon'ble member has adduced have

in any way supported the general proposition which he has put forward. The matters which he has brought to the notice of the Council are matters of departmental administration. It may possibly be the case, though it has not yet been officially brought to my notice, that there is at the present moment a demand for admission to the Northbrook School, but it is impossible to discuss a question of this kind in the Council. In the first place we have no figures to show us whether there is sufficient accommodation to admit of the increased number of pupils who, the hon'ble member says, are clamouring for admission. If the accommodation is not there, then even if we supply the teachers, it is absolutely certain that the University would refuse admission to these extra pupils. But I do not think that this is a matter of much importance. An instance such as that cited by the hon'ble member with regard to the Northbrook School may at any moment arise with regard to other schools in the province. It is entirely a departmental matter, and the hon'ble member must admit that it only arose in the course of the last month. Well, perhaps the department is not particularly noted for celerity in dealing with questions which come before it, but one must allow time for the matter to be represented to the Inspector of Schools, and then for the latter to take departmental action to remedy the defect. It is extremely likely that this particular case will come before me in the course of the next two or three weeks. And if it really turns out that there is a need for the increase of teachers in the Northbrook School, I shall take every measure possible in order to remedy this defect.

"The hon'ble member in the course of his remarks has again referred to a matter which was brought up at the meeting of the Council last year in discussing the Budget, *viz.*, the alleged want of graduate teachers in Bihar. In connection with that alleged deficiency a reply was given by the Hon'ble Mr. Gourlay on one of the occasions in which this Council met, and nothing which has fallen from the hon'ble member this afternoon in any way affects the position as it was then explained by the Hon'ble Mr. Gourlay. I think it is somewhat unfair to Government first of all to tax them with not appointing Bihari teachers, and then to turn round and say 'Well, if there are not enough Bihari graduates, why don't you appoint Bengali graduates?' If there is one thing that we have been hearing for the last few years it is the necessity of putting Bihari teachers to Bihar schools. We should like to meet the wishes of the Bihari community, but now we are told that we are wrong and that we should appoint Bengali teachers who have superior qualifications. I, however, very much doubt whether the sentiment thus expressed by the hon'ble member will find general approval among the members of the Bihari community. Though we have to a certain extent reduced the number of Bihari graduates in schools, we have not at the same time reduced the number so as to elicit any remonstrance from the University. We still satisfy the ordinary University standard, and I think that, that being the case, the more important consideration is that we should endeavour to meet the genuine wish of the Bihari community that, so far as possible, posts in Bihari institutions should be filled by qualified members of the Bihari community itself.

"What I have said with regard to the zilla schools applies, I think, almost equally to the question of private schools in Bihar. In Bihar, as elsewhere, we know that the standard of secondary education is unduly low. In the recent Convocation speech delivered by the Vice-Chancellor, attention was pointedly called to this deficiency of secondary education. But this is a deficiency which applies not only to Bihar but applies to the whole province of Bengal, and if any measures are to be taken to improve the efficiency in our secondary schools, they must be measures not for one particular section of the province, but measures which will also be applicable to the whole province.

"I come lastly to the question which the hon'ble member has raised with regard to the grant-in-aid to the Bhumihar Brahman College. I have already called attention to the fact that, though professedly dealing with the single instance of this College, the hon'ble member has brought in the general question of Bihar colleges. The general question of Bihar colleges was dealt with very fully in

the remarks I made on the occasion of the last Budget meeting of the Council. And there is nothing in what has fallen from the hon'ble member—though he taxes me with a want of logic—to show that the position I then took was unreasonable. I fully acknowlego the great liberality which has been shown by the members of the Bihari community. On the occasion which the hon'ble member has referred to, I distinctly pointed to the notable example set by them to the rest of the province. But at the same time in determining whether the Government is justified in founding a new college or raising the status of a college, there are other considerations which it has to take into account. The chief point which the Government must regard in a question of this kind is whether the college is actually wanted. And with regard to the Bhumihar Brahmin College—to which I will now confine my remarks—I am still unconvinced, though always open to conviction, upon the figures which the hon'ble member has produced, that there is any necessity for the establishment of B.A. classes in Muzaffarpur. The hon'ble member has pointed out that in the present year, if I quote the figures aright, there are seven students in the third-year and six in the fourth-year class. If we remember that there are three other colleges in Bihar and that the B.A. classes in those colleges are anything but full, I very much doubt whether sufficient justification has been shown for the creation of a new college teaching up to the B.A. standard in this part of Bihar. It has been argued that Muzaffarpur students will not leave Tirhut. They refuse to go elsewhere. That is a point which requires discussion. The question of a grant-in-aid to the Bhumihar Brahmin College has been engaging the attention of the department for some time past. The negotiations, I allow, have been rather protracted, on account, I may say, of a difference of opinion, to which I have just alluded, between the members of the governing body and myself as to the justifiable status of that college and also to the amount of grant to which they would justly be entitled. What I recommended was, and I still believe that it is a sound advice, that the College authorities should, in the first place, concentrate their efforts on making it a really efficient second grade college, that is to say, teaching up to the intermediate standard only, and that when circumstances justify a change of status they should then try to raise it to the B.A. standard. I am sorry to say that this advice was not accepted. The reason why I took up this position was that the number of students who passed the intermediate examinations from Tirhut is still far too small to justify the creation of a first grade college; and the remarks which the hon'ble member has made with regard to the application of funds for increasing the efficiency of the college seem to me quite beside the point. It does not matter how much you increase the efficiency of the college if you have not got any students to enter it. No amount of application of funds will secure this result. Tirhut has long possessed a college, and it is not only open to the intermediate students, but it has been teaching up to the B.A. standard. Notwithstanding this fact there is only an infinitesimal number of students who pass the intermediate examination of the University from Tirhut, and only a few of these show any indication of continuing their studies. I do not think I should be justified as educational adviser of Government in recommending to them the application of Government funds in order to place the College on a B.A. basis. What I shall be very glad to do will be, of course, to recommend to Government that they should give a liberal amount for the purpose of putting the College on a sound basis as a second grade College. But my advice in this respect has been rejected by the College authorities. However that may be, the matter is now ripe for submission to Government. The submission has been long delayed, partly for the reason I have explained, and partly because of the difficulty I have had in persuading the authorities of the College to submit their application in regular form. But I am now about to submit the whole case to Government. It will be for the Government to decide whether a case has been made out for raising the College to the B.A. status, and also to decide what amount of grant they will be justified in giving it. In this respect the hon'ble member has drawn comparisons with other colleges, notably with the Hazaribagh College. When the hon'ble member first referred to the

Hazaribagh College, I must say I felt a certain amount of nervousness because I certainly understood that he was going to support, by actual figures the position which he took with regard to that College. I felt relieved however, when no figures were forthcoming. He has asked me to look at the figures, but I am perfectly convinced, though there are no figures before us, that the number of students who are reading in the B.A. class in the Hazaribagh College is much greater than the Bhumihar Brahman College. I am afraid there is another point which the hon'ble member has overlooked, and that is that the Hazaribagh College is the only College in Chota Nagpur, while the Bhumihar Brahman College is only one of four colleges in Bihar. I think this is rather an important point in making comparisons between the Hazaribagh College and the College whose interest the hon'ble member has at heart.

"Before this question is submitted for the decision of the Council, I just wish to call attention to the proposal which the hon'ble member has made as to the means by which the necessary expenditure should be met. He has proposed in this respect that there should be a reduction under the head 'Inspection' of Rs. 50,000. Now, Sir, the amount provided under the head 'Inspection,' representing, as it does, the cost of a permanently sanctioned establishment, cannot well be spared. In fact, there is only one way in which the money could be found under this head, and that is by withdrawing the scheme, to which I already alluded in my introductory statement, for the provincialisation of Sub-Inspectors. If we are to give up that scheme, we would have Rs. 68,000 available, but I doubt whether the hon'ble member is prepared to go to that length. This class of officers is a very deserving class, and they have had to wait a long time before it has been possible to satisfy their just claims. I may bring to the notice of my hon'ble friend an important fact in this connection, and that is that I understand that the hon'ble member for the University, who, we all know, keeps a sharp eye on any increased expenditure under this head, has given his hearty support to this scheme."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I am much obliged to the Hon'ble Mr. Küchler for the credit for vigilance that he has been good enough to give me, and I am not prepared to assent to the proposal of the Hon'ble mover of the resolution for cutting down inspection grants in the way he desires to do. I am glad that the Hon'ble the Director of Public Instruction has admitted the just claims of a deserving body of public servants who have long been kept out of their dues. If, however, other means could be found for meeting his wishes with regard to Bihar educational institutions, I should be the last to stand in his way. Time was, when the interests of the Bihar educational institutions as well of other backward educational institutions like those of the Mahomedans had to be looked after merely by the member for the University. I, and before me my hon'ble friend Babu Bhupendra Nath Basu, ungrudgingly and unhesitatingly tried to discharge our duties in this concern, and even now we do not shirk them. Now that Bihar is, however, so well represented, and is so able to take care of itself, we have naturally kept ourselves in the background. We do not, however, yield to any Bihari in our desire to see Bihar institutions strengthened. I do not agree with the Hon'ble the Director of Public Instruction's opinion that the Bihar educational institutions ought not to have preferential treatment. That may or may not be relished in Bengal; but where special facilities are really wanted, whether it be in connection with Bihar institutions or Mussalman education, there would be no harm in giving some slight preferential treatment. Sir, the Hon'ble the Director of Public Instruction referred to the speech of the Hon'ble the Vice-Chancellor on Saturday last, and as I happened to have a copy of it with me, I was looking up the passage. It runs thus:—

'But, though strenuous efforts have been made in the case of numerous institutions to attain what must be regarded as a moderate standard of efficiency, I am not optimistic enough to conceal from myself the unwelcome truth that immense sums will have to be spent before the schools can be deemed fully qualified to prepare students ultimately destined to receive a University education. The subject, in which the teaching is most

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[*Babu Deba Prasad Sarbadhikari.*]

palpably defective, and, in many instances, conducted on what must be regarded as by no means rational lines, is English. Indeed, when we remember that our students, in the earliest years of their life, learn the first rudiments of English language from teachers who themselves never had any adequate training, it becomes a matter for astonishment that many of them learn so well as they do This is a subject which demands immediate attention. Mere severity of examinations does not always effectively advance the standard of teaching; and the aim of all sound systems of education ought to be, not so much to keep back the unqualified, as to reduce their number to an absolute minimum. The efforts of the professors in our colleges must be lamentably wasted, if they are called upon to impart instruction to students imperfectly trained in the course of their career in schools, and it would be a real assistance to the colleges if a comprehensive scheme to the radical improvement of secondary education could be speedily brought into operation.'

"Here is one matter with regard to which Bihar requires much more assistance than is necessary in Bengal, weak as it is. I am glad that the hon'ble mover of the resolution has stated that, if enough Bihari graduates are not forthcoming, capable Bengali graduates may be appointed, until Bihar is able to train their own. This ought to illustrate the mistake of absolute provincialisation, at all events with regard to educational matters, and it is not unfortunate that our Bihari friends should profit by the situation. In order for Bihari graduates to be plentiful, there must be facilities for their creation, and Behar must therefore have good colleges and schools. Bihar has a special feature as regards school education; there is not a sufficient number of private schools there such as one meets in Bengal, and therefore some preferential treatment is necessary with regard to the schools there. But there is some difficulty with regard to the college with which the Hon'ble Babu Braja Kishor Prasad's resolution is concerned. I do not agree with the Hon'ble the Director of Public Instruction that even if you have the means to have a first grade college you ought not to have it if there be no present local need. If you really make it efficient, students are bound to go there, for many students were not able to find admission in the different colleges in Bihar during the last two years for want of accommodation, and if a good college could be placed in Bihar, students, would flock to it in numbers. We had a good illustration of this in the college maintained by the Hon'ble Maharaja of Cossimbazar which was long in a moribund condition; but thanks to his exertion and munificence it has now taken the forefront among the educational institutions of Bengal. There you have an illustration, that you have only to add to the efficiency of the college, to be able to draw any number of students you want—nay you will have to duplicate the machinery before long, as the Maharaja of Cossimbazar has been obliged to do with regard to some of the subjects in the Krishnanath College, having regard to the increasing demand for admission. If, however, you have not enough resources not only from the Director's point of view but from the University point of view also, I think there is danger in turning a good second grade college into a bad higher grade college. I may incidentally mention the assistance that the Bhumihar Brahman College has been receiving from the University of Calcutta during the last two years from its slender resources placed at its disposal by the Government of India. Out of the amount that the University distributed last year amongst the colleges, it gave Rs. 12,000 to the Bhumihar Brahman College, of which Rs. 8,000 was for the hostel, Rs. 2,000 for the library, and the remaining Rs. 2,000 for the Physical laboratory. This was granted on condition that the college authorities would supplement the University grant at least by an equivalent amount, which, I believe, they did. Nearly the whole of the previous year's grant had been utilised for improvement of the laboratory, and increased grants placed at the disposed of the University this year will probably enable the University to give some more grants to the College.

"As to the St. Columbas College, Hazaribagh, referred to by the hon'ble mover, I might inform the Council and the hon'ble member in particular that the University realised that the Government was giving more to the Hazaribagh College, and that therefore the University assistance was proportionately less to that College than to the Bhumihar Brahman College. The St. Columbas College asked for Rs. 34,000, and the University gave it only Rs. 3,000."

Resolution.

[*The President; Babu Deba Prasad Sarbadhikari; Mr. Filgate.*]

The PRESIDENT said:—

"The hon'ble member is wandering away from the terms of the resolution. The St. Columba's College, Hazaribagh, does not enter into the resolution at all."

The Hon'ble BABU DEBA PRASAD SARBADHICARI said:—

"I quite realise that, Sir, but I was only incidentally referring to it. So far as the Bhumihar Brahman College is concerned, the University gave it Rs. 12,000 out of its last year's grant, and we hope that it is possible that something more will be given this year."

The Hon'ble MR. FILGATE said:—

"Your Honour,—I beg to support No. 1 of the resolution of the Hon'ble Babu Braja Kishor Prasad, and I would be failing in my duty to those I have the honour to represent if I did not do so. I quote no figures, but I hope my arguments will appeal to the Hon'ble Mr. Küchler, who, I understand, is himself 'open to correction.' I do not suggest, nor do I approve, that funds should be taken from any schemes or projects that have been already worked out or are provided for in the Budget, but I do consider that North Bihar has a fair and just claim to some consideration and support from Your Honour's Government in the matter of the Tirhut College. We have received most fair and generous help in many ways, and not for a moment would I suggest that we should be unduly favoured at the expense or to the detriment of other divisions of the Province, every one of which could no doubt spend and will spend a great deal more than they get. But if it is possible in the coming financial year to provide the help we require I sincerely hope that Your Honour's Government will find a way. I fully recognise that they 'have to cut their coat' according to their cloth; and if even this year they can find a short coat for us, if they cannot afford a long flowing one, it will be something. 'Providence helps those who help themselves,' and, thanks to the magnificent generosity of His Highness the Maharaja of Benares, the Maharaja Bahadur of Darbhanga and a large number of our leading landholders and private gentlemen, a very handsome and considerable amount has been raised—which clearly goes to show that we are in earnest in our endeavours to further the welfare of North Bihar. Unfortunately in the past we have not had the advantage of the fine and magnificent educational institutions that Bengal proper has, and, as compared with other parts of the Province, North Bihar is very backward with regard to higher education; and if the North Bihari is to hold his own and take his proper place in the future, he must be well and soundly educated, and it is most necessary that he should have his own college. The principal arguments against this are, I believe,—

"*No. 1.*—The results in the past do not justify the Government in raising the College to the standard we require, and the pupils for B. A. are few.

"*No. 2.*—There are excellent colleges in Calcutta, and even just across the Ganges at Patna. Why not send your boys to them?

"To No. 1, I would reply 'establish your college on a sound basis with Government support and a good staff: your pupils will come fast enough.' Had this argument been used years ago when the magnificent and fine colleges that to-day exist in Calcutta and other parts of Bengal were first founded, I am doubtful if many of them would have reached that high state of efficiency that they have now.

"In reply to No. 2. Bihar parents have informed me they would sooner forego a higher education for their sons than send them to Calcutta, or even Patna, where there are so many temptations, let alone, if sent to Calcutta, the risk of their boys getting contaminated by that 'coterie' who have stained the fair fame of Bengal with their gospel of assasination and general lawlessness. Thank God we have been free from it in Bihar. On political grounds I consider the Tirhut College should be supported and helped by Government. The boys and students will not be separated from that home influence with its moral training, parental advice, and control that is essential to the making of

good citizens, and noble and true men, and, furthermore, many of the temptations to be met with in all large towns and cities do not exist in Muzaffarpur in its rural simplicity and surroundings. A recent writer in the *Times* is very sound when he says: 'The evil of inferior teaching is not to be denied—it can be righted by expenditure. It is preposterous to leave the teaching of English and such subjects as Moral Philosophy and Political Economy in the hands of inferior 'half-educated men—no matter of what race. It cannot be denied that much of the sedition that taints the schools and colleges of India comes from the school-masters and professors—in many cases under-paid and discontented men.'

"I can assure Your Honour and the Hon'ble Members of this Council that North Bihar looks for and expects Government assistance in their laudable attempts to improve the status of the rising generation."

"The Hon'ble BABU BHUPENDRANATH BASU said:—

"I do not think that I should be justified in giving a silent vote on this motion. I have the pleasure of being associated with the Tirhut Division for many years, and I am speaking about the resolution from personal knowledge. My Hon'ble friend, the Director of Public Instruction, is quite right when he says that it would be injudicious, if not impossible, to take away Rs. 50,000 from the Inspection grant, and put it to the purpose on which the Hon'ble Mover wishes that it might be spent. It is difficult for us non-official members of Your Honour's Council to suggest ways and means. The Budget is prepared in the department which has a much better and more thorough knowledge of the sources from which money can be had than we are likely to possess on the subject. But the question is about the justice of the demand that has been put forward. My friend the Hon'ble Mr. Küchler says that amongst graduates that are turned out by the Calcutta University, Tirhut lads are very few. I admit that. He has not sufficient knowledge of the conditions which prevent Tirhut boys from coming in and taking their degrees in larger numbers than at present. As I said, I have lived in Tirhut for many years. There is a strong feeling in Tirhut including Darbhanga, Champaran and Muzaffarpur not to send their boys across the river to Patna, where the climatic conditions are not so good as in North Bihar, and where, as the Hon'ble Mr. Filgate has pointed out, social and moral conditions are not so sound as in the more rural villages of Muzaffarpur. Then, again, they do not like naturally to send their boys so far away as Calcutta. I had noticed also that boys in Tirhut would prefer to come to Calcutta than live in hostels in Patna, so that it is unanimously agreed that, for want of a good college in North Bihar, Bihari boys are deterred from availing themselves of the opportunities which our University places at their disposal. Then, Sir, we have lately constituted North Bihar into a separate division. My friend the Hon'ble the Director of Public Instruction was telling us that the Hazaribagh college was entitled to some consideration as it was the only one in the division. Thus, I may remind the Council, the Bhumihar College is the only college in the Tirhut Division. We have got colleges in South Bihar—Patna and Bhagalpur Divisions. I quite agree with the Hon'ble Mr. Küchler when he says that you should make a college a second grade one before raising it to the B. A. standard. There is much to justify that expression of opinion, but as my friend knows just as well as I do there is a strong feeling, both in Bengal and Bihar, that it is better to have a first class college than a second class one. He remembers that there is a strong dissentient note by Sir Gurudas Banerji about colleges being reduced to the second grade standard. I had an opportunity of talking the matter over with Mr. Greer, the Commissioner of Tirhut, while I was at Muzaffarpur, and he expressed the strong desire of the people under his charge to have a first class college in North Bihar if the Government would only stretch out a helping hand. I have no doubt that the rich as well as the middle classes would readily come forward to supplement the funds that may be placed at their disposal. When North Bihar and Patna

were under the charge of one Commissioner the anxiety for a college in North Bihar was not so strong as it is now. As the people of North Bihar have now got a separate Commissioner, they naturally look forward to a separate college. As the Hon'ble Mr. Filgate has stated, the people in Tirhut do not like to send their boys across the river to Patna or to Calcutta. Similarly, many Bengali parents in the mufassal are unwilling to send their boys to Calcutta, and they would much prefer to send their boys elsewhere. That is one of the reasons why the college which is so generously financed by my Hon'ble friend the Maharaja of Cossimbazar has received much support from the student community of Bengal. The Hon'ble the Director of Public Instruction was pleased to observe that it would be difficult to mete out preferential treatment to Bihar while neglecting other divisions so far as they proceed from Government.

As my Hon'ble friend Babu Deba Prasad Sarbadhikari has pointed out, the Members for the University in this Council, amongst whom I had the honour of including myself, have always advocated the cause of Muhammadan education because of their backward state of education. I will not, however, say that, at the expense of Bengal, special facilities should be afforded to Bihar, for the purpose of raising it to the same educational standard as of Bengal. I believe that if we take the educational test in Bihar, we will find that one boy in a hundred knows English, while in Bengal, Burdwan and Presidency Divisions, it is one in fifty. So the difference is very great, and I think that we all appreciate, whether Bengalis or Biharis, that some help should be given to this institution. I trust that the Hon'ble Mover will not, however, press his resolution, and I have no doubt that Your Honour's Government will give due attention to the matter when it comes up for consideration."

The Hon'ble BABU BRAJA KISHOR PRASAD said:—

"I fully sympathise with the difficulties of the Hon'ble the Director of Public Instruction in not having a copy of my speech. Sir, the reason of this is that, owing to unforeseen circumstances, I did not receive a copy of the Financial Statement till the 7th of March, and it was in a great hurry that I drafted the resolution. I had also very little time to make out a speech, and on account of this I could not send a copy in time. I think, perhaps, that it is for this reason the Hon'ble the Director of Public Instruction has not been able to meet the points that I had made out.

"First of all, I beg to point out to the Hon'ble the Director of Public Instruction that he has misunderstood altogether the point regarding the appointment of Bihari graduates in the educational department of Bihar. I never meant to say that Bihari graduates should not be appointed or that Bengali graduates should be given preference over Biharis. The point that I urged before the Council was that if Bihari graduates were not available, Bengali graduates might be appointed in their place, and education ought not to be allowed to suffer. Then, Sir, I took up the case of the Northbrook School as a typical one. If I had taken up the cases of other schools, it would have taken a lot of time, but I can convince Your Honour that the state of the zilla schools in Bihar is more or less similar. They are greatly in need of increased teaching staff. I think the Hon'ble the Director of Public Instruction knows full well that at the annual meeting of head-masters held some time ago, they strongly urged for strengthening the number of teachers. They want more graduates, and I beg most respectfully to submit that there are now fewer graduates than there used to be before. The time has therefore come when the number of graduates should be increased.

"I am sorry to find that no reply whatever has been given by the Director of Public Instruction as regards the case I made out of the High English schools in the subdivisions of the districts of Bihar. Not a word has been said by him about these schools, and I think that the replies given by the Hon'ble the Director of Public Instruction as regards the Bhumihar Brahman College are not very convincing, because the number of the students in the B. A. classes of the Hazaribagh College are fewer than in the Tirhut College. If, as my

Resolution.

[*Babu Bhupendra Nath Basu; Mr. Küchler; Babu Braja Kishor Prasad; the President.*]

hon'ble friend, Babu Bhupendra Nath Basu, has pointed out, it is argued that, because the Hazaribagh College is the only one in the Chota Nagpur Division, it should be given Government grant, it may similarly be argued that the Tirhut College is the only one in the Tirhut Division. If one college is getting Rs. 12,000 from the Government as maintenance grant, there is no reason why a similar college should not get anything. Although I have been advised to withdraw the resolution, I am not going to do so, as I want to know how many Members are in favour of this resolution, the subject being a very important one. Unless I get an assurance from the Government that they will consider the matter, I do not think I shall be justified in withdrawing the resolution."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Had not the Hon'ble Babu Braja Kishor Prasad proposed to reduce the inspection grant by Rs. 50,000 we would have been very glad to support his scheme. Under the circumstances, it would be a mistake to put this resolution to the vote."

The Hon'ble Mr. Küchler said:—

"I do not think, Sir, that I will take up the time of the Council by dealing with the new arguments which have been advanced by the members who spoke in favour of the resolution. It seems to me that the Hon'ble mover is willing to withdraw his motion, if a pledge is given that the matter will be taken into consideration. I think I have already indicated in my remarks that the matter will be taken into consideration; in fact it is under consideration at the present moment. I can also assure the Hon'ble Member that the arguments which have been put forward in support of the grant-in-aid will receive a very careful consideration at the hands of the Government. Beyond that I am not in a position to pledge either myself or the Government; but that the matter will receive consideration I think I may state for His Honour."

The Hon'ble Babu Braja Kishor Prasad said:—

"As I think the assurance given by the Government to be sufficient, I beg, with your Honour's permission, to withdraw the Resolution."

The President said:—

"I think the Hon'ble Member has adopted a wise course in withdrawing his resolution, because, in the first place, it has been very fully discussed, and in the second place it would certainly have been necessary to oppose it, if it had been put to the vote, on two grounds alone. The first is that the Hon'ble Member has made no attempt to meet the objection, raised on behalf of Government by the Director of Public Instruction, to the reduction proposed in the Inspection grant, which is the only means of financing his proposal; this is the first and essential part of the resolution, and if that fails, the resolution as a whole must fail. It is quite certain that no reduction can be made under the particular item to which the Hon'ble Member has referred.

"The second ground was that he had not made any reference, although the Hon'ble Mr. Bhupendranath Basu did make a reference, to the argument used by the Director of Public Instruction, *viz.*, that he was prepared to recommend Government to give liberal assistance to the Bhumihar Brahman College to raise it to a position of complete efficiency as a second grade college, and until this has been done, the question of its being raised to the first grade cannot come up for consideration. This is an argument which is deserving of very careful consideration.

"I think, therefore, that he has acted wisely in accepting the Hon'ble Mr. Bhupendranath Basu's suggestion by withdrawing it."

The resolution was then, by leave of the President, withdrawn.

Resolution.

[*Maharaja Manindra Chandra Nandi.*]

The Hon'ble Maharaja Manindra Chandra Nandi, with the leave of the President, withdrew the following Resolution of which he had given notice:—

> This Council recommends to the Lieutenant-Governor in Council that an addition of Rs. 62,500 be made under "22—Education", a corresponding reduction being made under "32—Miscellaneous," the special provision made under the latter head for subscription payable to a new Vernacular newspaper being omitted, and that the additional sum under "Education" may be spent in providing hostel accommodation for students in Calcutta.

The Hon'ble Maharaja Manindra Chandra Nandi moved the following Resolution:—

> This Council recommends to the Lieutenant-Governor in Council that a reduction of one lakh be made in the grant for "Jail Manufactures" under head "19B—Jails", and that a corresponding increase be made under "22—Education", to provide for initial outlay on the opening of a Technical Institute.

He said:—

"May it please your Honour,—In the grant for Jail Manufactures under '19B Law and Justice—Jails,' I find there has been an increase of Rs. 1,20,000 over the actuals of the year 1909-10. There should have been a corresponding increase of income shown under the head 'XVIB. Law and Justice—Jails' being the price of jail-made articles. Some authorities are against the principle of increasing jail manufactures, on the ground of such products competing with the products of independent artisans, and on that account would not have more articles manufactured in jails than would give the inmates a fair occupation while in jail. But there is, on the other hand, the question of the benefit of education in handicrafts received by the prisoner, who can convert himself into a respectable artisan when let out of it, if he learns some handicraft there; there are, therefore, advocates for the extended operation of utilising the time and attention of prisoners towards the manufacture of various articles of daily use. It is, however, not necessary to go into the merits of these two views. In the present case, if we were to advert to the figures of previous years, we could easily reduce the expenditure of money on raw materials for jail manufactures without diminishing the amount budgeted for, as the proceeds from sale of such manufactures. Taking the expenditure on purchase of raw materials and the receipts from sale-proceeds of jail manufactures (as shown at pages 32 and 51 of the Financial Statement) we find that the profits work out as follows:—

Year.	Ratio of income to expenditure.	Percentage of profit.
1906-07	11,93,516 / 10,36,024	15·2
1907-08	11,42,380 / 10,33,786	10·4
1908-09	9,08,969 / 9,24,423	—1·6
1909-10	8,45,536 / 7,40,465	14·3
1910-11 (Revised) ...	9,10,000 / 7,29,500	24·7
1911-12 (Budget) ...	9,00,000 / 8,60,000	

Resolution.

[*Maharajadhiraja Bahadur of Burdwan; Mr. Küchler.*]

"The figures of all the five years show an average profit of about 13 per cent., but, leaving out of account the year 1908-09, in which the diminished profits from sales must have been due to abnormal causes, we find that the figures of the other years show an average profit of 16 per cent. and this may therefore fairly be taken as the probable rate of profit on the outlay on raw materials. By reducing the expenditure by Rs. 1,00,000, *viz.*, to Rs. 7,60,000, the total income will be Rs. 8,81,600, while the budget stands at Rs. 9,00,000. It will appear from the figures given above, that reduction can be made to the extent of a lakh of rupees, which can be very usefully applied to the initial outlay for the opening of one or more Technical Institutes—a matter of signal benefit to the public at large. Such institutions will deter many a man from drifting into jail or finding themselves in the reformatory. We are very backward in the matter of technical education, and while our sister provinces have through the munificence of private donors made large advance in this much-desired direction, Bengal has lagged behind, and will be hopelessly left far in the rear, if opportunities are not placed before her sons for equipping themselves with technical education. The technical schools started by the Government of Bengal recently for instruction in particular arts, such as agriculture and weaving, are not available to all classes of the people by reason of their situation and other conditions. What I am urging for is one or more institutions where students may receive practical instruction in such arts as dyeing, tanning, pottery, mouldings, match manufacture, weaving of woollen materials, type-founding, pin-making, paper-making, steel-pen and pen-holder manufacture, glass-manufacture and the like."

The Hon'ble Sir Bijay Chand Mahtab Maharajadhiraja Bahadur of Burdwan said:—

"I rise not exactly to support the resolution which my friend the Hon'ble Maharaja Manindra Chandra Nandi has moved but to draw the attention of Government to the absolute necessity of providing more funds for technical institutions in Bengal. As I was a Member of the Finance Committee I may say that the amount the Hon'ble Maharaja wishes to take away from the head 'Jails' will not, I am sure, be possible, but I hope Government will give due consideration to the matter of spreading technical education in Bengal."

The Hon'ble Mr. Küchler said:—

"As far as I could gather, the Hon'ble Maharaja Manindra Chandra Nandi's arguments were mainly directed to the question of the reduction in the grant of jail manufactures. The discussion of this side of the question, I leave to the department concerned. As far as the actual proposal to found a technical institute in Calcutta is concerned, I may at once say—and in this respect, I think, I can speak on behalf of the great majority of the Members of Council—that I am in full sympathy with the object he has at heart, that is, to improve the facilities for technical education in Bengal. But at the same time, I think, I ought to point out that in view of the expenses that are being incurred in connection with the Engineering College at Sibpur, the Government can hardly be called upon to bear the expense of establishing and maintaining another institution of a similar character on this side of the river. The Sibpur College, though called an Engineering College, is, to all intents and purposes, a technical institution, and includes in its course a very large number of branches of purely technical education. It is probable that being situated on the other side of the river, it is not altogether convenient for non-resident students. But at the same time I think it may be said that it meets the present want for technical education in a fairly satisfactory way. When the removal of the Sibpur College to some other site is actually taken in hand, the question may arise and will deserve consideration at the hands of the Government, whether it will not be desirable to found a technical institute in Calcutta itself for at least some of the branches of technical education such as those referred to by the Hon'ble mover. One great advantage of a technical institute in Calcutta would be that we should be able to open night classes in connection with it—and, I must say, I am a

great believer in night classes in connection with technical institutes. The great point about these classes—and I referred to a similar consideration in my opening statement—is this, that these night classes are visited by pupils who are already in employment, and are therefore free from the consideration of that very great difficult question, *viz.*, the prospect of employment for students after they have passed through the courses of the institute. Therefore, I do think that if the Sibpur College is removed, the question may arise as to whether we should not have a technical institution—on what scale I am not prepared to say at present—for meeting the wants of the people in Calcutta itself. At the same time I think the proposal to allot a lakh is not satisfactory. I do not think we can do anything with a lakh as the Hon'ble Maharaja of Burdwan has pointed out. We must have a great deal more money before we can start a properly equipped and satisfactory institute in Calcutta."

The Hon'ble MR. DUKE said:—

"I am not sure, Sir, if I was able to follow the Hon'ble Member's arguments regarding jail manufactures, but so far as I can gather, I think his intention was that we were only budgeting for a very small profit, that profits on jail manufactures generally had been small, and that, apparently, prisoners might be otherwise employed on other work at no very great loss. If that was the line, if I understood him rightly, I must contravert the whole position at once. In introducing the head of jails, I only said in general terms what the profits on jail manufactures had been. From 1906-07 until last year they had varied between 3·20 and 2·32 lakhs, and, speaking roughly, during the last seven years the profits made have practically always exceeded 30 per cent. upon the cost of the raw material. It is true that in the current year only a very small profits is shown. The cost of the raw material is put in at 8·6 lakhs and the price of the manufactured at 9 lakhs, but in introducing the head I explained that the total quantity of jail manufactures had fallen considerably in recent years, and we were taking steps to rehabilitate this. The first of these steps is to reorganise manufactures.

"The profits come somewhat later when the completed articles are sold, and the consequence is that this year we have budgeted for a larger amount of raw material than we expect the sale of within the year, but the profit will necessarily follow in the following year. The main point is that first of all our jails must be supplied with labour. There can be no reasonable or satisfactory management of a jail unless suitable work is provided for the prisoners to keep them employed. The second point is that we have always succeeded in realising about 30 per cent. of profits on the materials which we have worked up, and there is no reason whatever to think that we should not continue to realise it. Therefore any proposal to reduce the amount of money expended on raw materials in jails must result in a further loss of 30 per cent. If a deduction of one lakh is made on raw materials, then the total loss in sales would amount to Rs. 1,30,000. The proposal is very uneconomical and disadvantageous, and it is impossible to work the jails with a smaller amount of raw materials than can suitably be worked up."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I believe the object of the Hon'ble Mover is about the introduction of some sort of technical institution, and having regard to the observations of the Hon'ble Mr. Küchler which show that Government is fully alive to the necessity of having a good technical institute, that object has to a great extent been secured. Although the Sibpur Engineering College is more or less a technical institute, the general impression is that it concerns itself more largely with the higher branches of science than the humbler department of technical instruction. Government and the public are now alive to the necessity, and this being so, I think the object which the Hon'ble the Maharaja had in view has been attained."

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI said:—

"Your Honour, my object has been explained by the Hon'ble Babu Bhupendra Nath Basu. As, however, Government is going to remove the

Resolution.

[*Babu Bal Krishna Sahay.*]

Sibpur Engineering College to a healthier locality, I hope that a technical branch will be provided there. I beg to withdraw the resolution."

The resolution was then, by leave of the President, withdrawn.

The Hon'ble Babu Bal Krishna Sahay moved the following resolution:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that under the heading "Education" provision be made in the Budget for the following grants:—

(1) Rs. 5,000 for a hostel building at Ranchi for the non-Christian *Kol* boys receiving education in the local schools;

(2) Rs. 2,000 for helping the maintenance of the Bihari *Ashram* in Calcutta, and

(3) Rs. 10,000 for improving the efficiency of the Patna College staff, *viz.*, the employment of a professor for teaching philosophy and logic; and

(*b*) that the amounts noted below under the heads stated against each amount be so proportionately reduced as to save Rs. 5,000 for the hostel building for *Kol* boys at Ranchi:—

	Rs.
Contribution towards the Athletic Club	1,500
Encouragement of Athletic Clubs	4,500
Grant for Athletic Clubs	500;

(*c*) that out of Rs. 4,000 provided for the cost of maintaining messes attached to Government Colleges in Calcutta, Rs. 2,000 be given to the Bihari *Ashram* by reducing Rs. 4,000 to Rs. 2,000; and

(*d*) that the amount of Rs. 60,000 under the head for strengthening the staff of Colleges be reduced to Rs. 50,000, and that Rs. 10,000 thus saved be given to the Patna College for improving the staff of the said College.

He said:—

"I crave leave to appeal to the Members of the Council and to your Honour for three additional grants under the head Education. I quite realise the position of the Government in preparing the Budget, and the difficulty in cutting down any item already put down, but I may be excused for urging that where anything important demands our interference, we are compelled by sheer necessity and sense of duty to bring the same to the notice of the Government. Representing a poor and out-of-the-way division, my wants and demands do not count by lakhs. My first item therefore consists only of Rs. 5,000, which I beg of you, gentlemen, and your Honour, in the name of the poor helpless *Kols* of the district of Ranchi.

"Your Honour knows that the zamindar boys in the district have got a boarding-house at Ranchi. The Christian boys also are helped in this direction by the several Christian Missionary Societies working in the district. But, Sir, there is no arrangement worth the name for the non-Christian original settlers of the district—the poor non-Christian *Kol* boys. Of late an attempt has been made by the non-Christian *Kols* to educate their children, and the organisers have so far succeeded as to bring into Ranchi over 40 boys from the mufassal. Arrangements are being made by some *Kols* to support these boys by collection of small quantities of paddy made in the villages, and the whole affair is managed by a few educated members of the community who are employed at, or live in the villages near Ranchi.

"These poor boys live for the present in a little hut provided temporarily for the purpose by a man of their community. This house is located in a very unhealthy part of the town and far away from the schools. They stand in need of a building close to school and in a healthier locality. The organisers are too poor to provide for a building, and their resources are too small and scanty. There is no one to help them. The local zamindars have not yet risen to understand the benefit of having educated tenants. They never seem to think that it is their duty to educate their raiyats and would-be raiyats. So these poor people have nobody to come to their rescue. The hut placed temporarily

at their disposal is not only located in an unhealthy quarter, but may be taken away at any time. I think therefore, Sir, that unless the Government help these poor people and encourage their laudable attempt, there is little chance of their making any advance. I therefore beg the Council to recommend that provision be made for Rs. 5,000 for building a house for these helpless people. I expect the support of the Director of Public Instruction in this direction.

"The next item is of Rs. 2,000. Though I was the other day described to be a domiciled Chota Nagpuri, and it may be true to some extent, yet, Sir, I am all the same a Bihari, and my sympathy for and connection with Bihar has not been lost or has not ceased. I therefore feel very much for the Bihari boys who, for want of room in the Hindu Hostel or for any other reason, have to make their own private arrangements for their lodging in the town of Calcutta. I need hardly say how difficult it is to arrange it. Attempts have now and then been made to raise funds for making a building for the purpose, but at least up till now they have been crying in the wilderness. They have, however, established a Bihari *Ashram*, where they board and lodge.

"It need hardly be said that proper care of the boys is always very necessary. Good company and good atmosphere are always wanted, and specially in the present unfortunate state of the country. The parents of the Bihari boys are very anxious to keep their children free from all anarchical touch, and to avoid contagion it is necessary that they should have a hostel of their own, but, Sir, I know the Government, embarrassed as it is with law expenses due to the fanatical deeds of the anarchists, cannot at present spare large amounts. Every lover of the country sincerely wishes that order and peace be soon restored, and that people whose heads have been turned wrong may soon understand that blood will never wash away their sins, for which India is suffering from poverty and plague, etc., as we do believe. It is the purity of soul that, like pure water, would purify us and save us.

"But, Sir, I sincerely hope that the attempt of some energetic Bihari boys in establishing the Bihari *Ashram* will receive such help from the Government as the Government can easily spare. I may inform the Council, and I daresay some of the Hon'ble Members may have personal knowledge of the fact, that the *Ashram* is not in a very hopeful condition, and there is a fear of its collapse if timely aid is not given. There is often deficiency, and so difficulties, in maintaining the institution, and I appeal for Rs. 2,000 to help the *Ashram* with. I do not think it is a large sum, and the amount will very much help the students, who otherwise might be compelled to put up with undesirable people and be ruined. There is a Committee in charge of this *Ashram*.

"The third item is for strengthening the Patna College staff. It is really to be regretted that there is no M. A. Class, and no Professor of Philosophy and Logic. I need hardly dilate on the importance of the subject; and I leave it to the Hon'ble Director of Public Instruction who can certainly better realise the position of both the Government and the students.

"Your Honour takes keen interest in educational matters. I am therefore tempted to bring forward these matters in the Council for consideration.

"I have made certain suggestions as to where to find money for the above objects. These are mere suggestions. If my resolutions are accepted, I feel sure funds will be available for these purposes from under some head in the Budget."

The Hon'ble Mr. Küchler said :—

"I must confess, Sir, to a certain feeling of doubt as to whether the first two items of the Hon'ble Member's resolution can be suitably discussed in Council. They are in the nature of petty grants-in-aid, and I should mention here that no application has as yet been made to me with regard to them through the ordinary departmental channels. If the matter had come on appeal before the Council, the position would have been different, but if applications like this are put before the Council in the first place, I am afraid a very inconvenient precedent will be established. The impression is likely to gain ground that applications for grants-in-aid will receive special consideration if this forms the subject of discussion in Council, and I am afraid the Council will be

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inundated with applications of like nature. I do not think that it is a state of affairs to be desired. Nor do I think that the particular grants-in-aid which the Hon'ble Member has advocated here are of sufficient importance to justify special consideration apart from the ordinary grants-in-aid allotment. I submit, Sir, that this particular grant-in-aid should be considered along with numerous other applications for assistance which are yearly made to me. If we discuss the merits of this particular grant-in-aid, I am afraid, I must confess, that I am not in a position to say anything at the present moment. From the information which has been placed at our disposal by the Hon'ble mover, it is perfectly clear that we have not sufficient data to come to a clear understanding that this application is reasonable. For instance, with regard to these non-Christian *Kol* boys who are alleged to be reading in Ranchi, we do not know whether they are reading in vernacular or in English. The question may also arise whether these boys could not get facilities for prosecuting their studies without coming to Ranchi. That is a point which is to be determined, and it cannot be determined on the information placed before us. It is I venture to submit not a matter on which the Council can really decide.

Then, as regards the Bihari *Ashram*, there is again room for further inquiry. As far as I have been able to ascertain, this *Ashram* is not occupied by students only, but accommodates other persons such as clerks. If that be the case, then I do not think it can be aided from the educational budget.

Passing now to the third item in the resolution, I am glad that an opportunity has presented itself for ventilating this question in Council. It enables me to state briefly the facts of the case. Originally under the scheme which was initiated by Mr. Earle for strengthening the staff of the various colleges, a Professorship of Philosophy was sanctioned for the Patna College. It was only a matter of appointing a Professor of Philosophy, and not of Logic, for the teaching of which provision already exists at the College. But a representation was made to me that Philosophy was an extremely unpopular subject. Now, in a matter of that kind, I had to be guided by the people on the spot. Not only was that representation made to me, but it was also represented that the students were very anxious to have political economy and political philosophy included in the curriculum. Therefore, it was decided to appoint a Professor of Political Economy and Political Philosophy. I have no reasons to believe that since that date philosophy has become any more popular than it was before. I am therefore compelled to oppose the resolution, or rather this sub-head of the resolution, which has been put forward by the Hon'ble Member.

Before I close, however, I wish to say a few words upon the financial aspect of the question. In this respect, I am afraid the proposals which have been made are rather infelicitous, probably owing to the fact that the Hon'ble Member had to make his proposals in a hurry, and that he had no means of access to the information which is at the disposal of official Members. In making proposals for establishing hostels for *Kol* boys, he suggests that the contributions made by the Bengal Government to athletic clubs should be withdrawn or reduced. It is impossible to approve a suggestion of this kind. The principle on which these amounts are given is that Government contributes an equal amount to what is subscribed by the students or the boys of a particular school, and I think the Council will agree with me that it will be entirely undesirable to do anything to discourage the spread of athletic exercises in the schools of Bengal. I therefore think that, as far as this source of revenue is concerned, the proposal of the Hon'ble Member is quite impracticable. It is also impracticable, as he has suggested, to reduce the cost of the messes attached to the Government colleges. After all we have heard of the necessity of providing proper hostel accommodation for students, I am afraid I cannot agree to any reduction under this head. With regard to the third proposal made by the Hon'ble Member, that the amount of Rs. 60,000 under the head of strengthening the staff of colleges should be reduced to Rs. 10,000, I may say that the provision for strengthening the staff is founded upon a well-reasoned estimate of our requirements in this respect, and it is really impossible to curtail that estimate. As a matter of fact, out of this Rs. 60,000 allotted for strengthening

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[*Babu Bal Krishna Sahay ; Babu Deba Prasad Sarbadhikari.*]

the staff of Government colleges, a very large portion will go to meet the cost of one of the new appointments of the Patna College itself. A Professor of Political Economy and Political Philosophy has just arrived in this country for the Patna College, and I do not suppose that it is the intention of the Hon'ble Member that he should go back. With these words I oppose the Resolution.

The Hon'ble Babu Bal Krishna Sahay said :—

"I only beg to add, Your Honour, that, as far as my information goes, the *Kol* boys of Ranchi read in English schools. However, I do not press this Resolution, as I hope, when funds will allow, Government will see their way to make the necessary improvements."

The Resolution was then, by leave of the President, withdrawn.

The Hon'ble Babu Deba Prasad Sarbadhikari, with the leave of the President, withdrew the following resolution of which he had given notice:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of rupees two lakhs (or such other proportionate sum as the Government may be able to spare, having regard to the conditions imposed by the Government of India with regard thereto) be provided out of the Imperial Educational Grant as contribution to the University of Calcutta for acquiring the Market to the south of the Senate House and the Law College;

(*b*) that a sum of one lakh (or such other proportionate sum as the Government may be able to spare, having regard to the conditions imposed by the Government of India with regard thereto) be provided out of the Imperial Educational Grant as contribution to the Rameswar Library of the University of Calcutta;

(*c*) that a sum of one lakh (or such other proportionate sum as the Government may be able to spare, having regard to the conditions imposed by the Government of India with regard thereto) be provided out of the Imperial Educational Grant for assisting private secondary schools for boys and girls;

(*d*) that a sum of three lakhs (or such other proportionate sum as the Government may be able to spare, having regard to the conditions imposed by the Government of India with regard thereto) be provided as contribution towards the improvements of the Presidency College; and

(*e*) that the rest and residue of the Imperial Educational Grant be provided for strengthening and improving boarding accommodation for colleges and secondary schools.

He said :—

My reasons for giving notice of these resolutions are set out in my note, which may be taken as read :—

"The Educational Budget for the year presents some special and striking features which must be highly gladdening to all representing educational interests. There can hardly be a Member of this Council, or of Your Honour's Government, who is not directly or indirectly interested in this great and essential Department of State Administration, truisms regarding the vital and primal importance of which need not be recapitulated. The Educational Budget of Bengal has been steadily rising, and one would be grossly ingrate indeed, if he were to fail to recognise or be thankful for this expanding factor of national amelioration. From thirty-eight and a half lakhs in 1906 to 70 lakhs and a quarter in 1911, may not be a phenomenal expansion, but ought to satisfy normal requirements. And no would expand at this rate do, if years of neglect and mistake had not preceded the later years of march along correct lines. The lump provision of 24½ lakhs, the welcome benefaction of the Government of India even after its solemn determination not to dole out its usual benefactions, because of a more natural and just Provincial Settlement, will not be the passing special

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feature of the year, but will be continued during the next. This ought to afford us present satisfaction, and we need not look ahead beyond the next year. Eliminating this windfall, however, the Provincial provision of 58 lakhs and a quarter falls short of the last year's budget of 59 lakhs and 17 thousand, which, as just explained by the Director of Public Instruction, was revised or reduced by over four lakhs, chiefly in salaries and allowances to Inspectors and Sub-Inspectors, that had been provided for in the last year's Budget. I felt obliged to criticise the Inspection charges, and had the satisfaction of being practically assured by the Hon'ble Mr. Küchler last year that such charges had nearly attained their ultimate height. But I would not for a moment presume to believe that the saving in the inspection charges which reduced the last year's educational expenditure, could have the remotest reference to my objections. Indeed, I should be sorry if it had, for a long-suffering and worthy body of public servants with deferred expectations happened to be kept out of their dues by reason of the budget grant not being made available, and I am sincerely glad of the provisions for the regrading of Sub-Inspectors. The slight rise this year on inspection charges is due to the provision to bring about the equilibrium in this regard that was the last year's due, and I shall be glad and happy indeed if my rarely invoked questioning spirit has helped in expediting this equilibrium in the least degree. With commendable and inimitable abnegation the Directorate has not added materially to its own charges, and arrangements have been bespoken for strengthening the staff of Professors in Government Colleges, including the Sanskrit College, the regrettable state of affairs in connection with which it was my duty last year to bring to Your Honour's notice. To the grateful joy of the Professoriate and the public, provision has been made for four officers in the Indian Educational Service to the extent of Rs. 24,000, which, I take it, is an earnest of the promotion of four deserving members of the subordinate service to the higher service which is awaiting the sanction of the Government of India at Your Honour's instance. Provision has also been made for improvement of the teaching staff at the Presidency College, and the Ravenshaw College, and for improvement of Muhammadan Hostels and Madrassas, and for a new scale of allowances for Superintendents and Assistant Superintendents of Hostels and Messes attached to Government Colleges, all which are reasons for gratitude and gratification, that ought not to be allowed to be marred because of a small investment in 'Castes and Tribes,' that by mistake may have crawled from under crowded census headings.

"And yet, if with all this roseate glow around, I feel obliged to ask for more, it is not because of innate Oliver Twist instincts, but because of the sheer necessities of the situation. And my mendicancy would be facilitated, I thought, by the timely benefaction of the Imperial Government—a fitting signalisation of the creation of a separate and self-contained Educational Department under the special and exclusive care of a separate Member of the Government. According to the Hon'ble Mr. Duke's Memorandum, the expenditure upon buildings in the Educational Department was to come out of the special grant of twelve lakhs of rupees. This had been bespoken in ignorance of the conditions attaching to the grant. My scheme of dividing the spoil had been also framed in similarly blissful ignorance, and, as I claim, with no less justification. In absence of clear and inviolable conditions to the contrary, about which I could not obtain any information up to Thursday last, I thought my way clear to put in indents for all that appeared to me to be educationally needful. In the absence of such cast-iron conditions, and in view of the pressing requirements of the Educational Department as a whole, I thought it might without injustice to any of its particular branches be suggested that both University, Collegiate, Secondary and Primary Education should benefit by this windfall. So far as the Colleges are concerned, appreciable, if not fully adequate, arrangements are suggested as stated above in the Financial Statement itself for strengthening the staff of the Government Colleges. Assistance to private Colleges has also to a certain extent been provided out of existing Imperial grants. What, however, may be called University education proper—that is within its buildings and on its premises—has not yet benefited to the extent that we have long been wanting. My resolution, therefore, in the first instance, sought to supplement the resources of the University with

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regard to two pressing matters. The first is with reference to a long-standing and crying necessity—I was almost going to say grievance I refer to the emergent necessity of acquiring the market to the south of the Senate House and of the Law College which is a serious menace to the health of those who have to frequent these buildings and to the proper carrying out of the work that is to be done there. I have referred to this matter year after year, and last year I got the Hon'ble the Director of Public Instruction to agree with me so far as to admit the desirability of the acquisition. He is one of my fellow-sufferers in the Saturday martyrdom in this neighbourhood, and his agreement is not unnatural. Last year according to my friend's own showing the University Building Fund stood at less than two lakhs after providing for the Library site and other necessities. The Library demands are growing upon us apace, and nobody can say how far that balance will be diminished even if a dole can be saved out of the general grant of eighty thousand rupees. As regards the University reserve of six lakhs only a small sum could be available for building purposes, and this will be forthcoming at the due time. But with resources such as these, the University cannot, in my hon'ble friend's words last year, "decide whether it is desirable to acquire this particular plot or not," if by 'decide' he means 'decide to acquire.' Any other and cheaper plot would be useless and this blot and disgrace to the educational neighbourhood would continue unless its new President were to acquire it for the University Institute. We must have this plot, and at once, and we must have assistance in getting it. The cramped accommodation of the Senate House was never brought home in a more acute and distressing manner than this year when, owing to the inability of the Presidency College, the Hare School and Hindu School authorities to lend their halls for the purpose of the University Examinations which had been allowed throughout heretofore, special and by no means convenient arrangements had to be devised for the purpose of accommodating the candidates, though under new conditions their number has diminished. The University has no suitable hall wherein to accommodate all the students that require examination accommodation in Calcutta, and it has been necessary to commandeer the buildings of the different educational institutions of the metropolis for meeting these emergent wants. The authorities of these institutions have never grudged, or hesitated to accord, the assistance that the University could well look forward to, but examinations have nowadays to be spread over so many days, nay, weeks, having regard to the diversified and multifarious curriculum, that school and college work proper grievously suffer if they are to be shut up for an indefinite period during the weeks or rather months during which the different examinations have to be held one after another.

"This is but one part of the wants that I have in view in pressing for enlarged building accommodation for the University. There are others of no less importance, such, for example, as a University Laboratory, where for the sake of efficiency and uniformity practical examinations in science could be held. We also want accommodation for the daily growing number of University Lecturers and University Readers and their expanding classes. There are not adequate meeting rooms, for numerous Committees and Boards that have to sit almost from day to day, and for the offices that are getting larger and larger every day. When the Rameswar Library was offered to the University, the generous donor's wishes and ideas would have been better consulted, if the palatial building now rising behind the Senate House piles under the diligent and expediting care of Messrs. Martin & Co., could have been placed alongside the Senate House and facing the public roads to its east and south. Architectural effect and administrative convenience would have equally prevailed, and a black spot in the midst of the educational buildings of Calcutta would have been removed withal. Wedged between the Medical College, the Senate House and the Medical College Hostel, flanked by the Eden Hostel, and within literally a stone's throw of the other important educational institutions of the neighbourhood, the insanitary fish market has been a drawback that we have long been persistently trying to have removed. It could have been removed at much less cost when the question was first raised, and the costs of acquisition are daily growing. The

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cost will be greater than ever if there is further delay, and if the University was to accomplish this improvement out of its own unaided resources as the Director of Public Instruction suggested it should, the chances are that it will never be done. The University, however, does not expect the whole of the funds to come from outside. It can eke together some little funds of its own, but large Government help, and possibly outside help also, has to supplement the University resources.

"The Rameswar library buildings are nearing completion, and the question will be as to what the library should be that is worthy of being located in this building. The existing University library has been collected on lines more supplementary than independent, and the efforts of the management have been to bring together works of reference and rare works such as are not to be had in other libraries in Calcutta. That which may have sufficed when the University was first started does not meet the present demands. Though some of the College libraries are equipped well enough for current ordinary work, the appliances for higher work are phenomenally poor, specially of research work that must be a part of up-to-date University work. If such work is to flourish, a good central library open to all colleges and educational institutions must be located in the buildings that the munificence of the Maharaja Bahadur of Darbhanga has placed at the disposal of the University. Here also, the University is embarrassed for want of funds, and its difficulties would have been very great indeed, if Your Honour had not been good enough to make a timely donation of Rs. 5,000 for immediate expenses.

"Now that the improvement of the Presidency College *in situ* has not only been finally decided on, but partially given effect to, it is of importance to push on with the scheme of improvement as fast as possible. Having regard to the existing resources of your Honour's Government, the scheme in its different departments would necessarily have to be spread over a number of years, which would materially interfere with the full realization of the benefits accruing therefrom. The Physical Laboratory of the College is now well in advance, but the College sorely needs Physiological, Botanical and Geological Laboratories. The land that we have will not suffice for this, and if the work is to be limited for the present to no more than the Physical, Botanical and Geological Laboratories, land is immediately to be acquired. I cannot help thinking and repeating that it will be cheaper and more expedient to acquire all the land that we want so that the cost of future acquisition, in which we have adverse interest in a different and personal capacity, may not be prohibitive. But if that course does not commend itself to Government, land for the Physiological, Botanical and Geological Laboratories must be immediately acquired, and the provision of 6 lakhs of rupees towards these necessary improvements which will come out of the Imperial grant, will meet the immediate requirements. His Excellency the Viceroy's morning visit to the Presidency College has borne abundant fruit, which must be gratifying to Presidency College men, old and young, and to that portion of the public that fought for its improvement *in situ*.

"And lastly, Sir, I come to the needs of the college and school boarding-houses about which we have heard so much of late in quite another connection. That was one of the matters for which some of us have long pleaded. The Hon'ble the Director of Public Instruction was good enough to say, though not exactly in this connection last year, that where Government had not been able to satisfy the demands for increased expenditure, the refusal had been dictated not for want of sympathy, not by merely financial reasons, but for considerations which presented themselves after a full and careful examination of the merits of each question. However much the last qualification may apply to some other questions, it certainly can have no application to the question of providing suitable accommodation for students' boarding-houses in Calcutta as well out of it. There was no more eloquent advocate and forceful exponent of these needs than the Hon'ble the Director himself, in connection with the proposal that the memorial of His late Gracious Majesty should take this particular shape. For reasons that need not be referred to here, the Hon'ble Member's efforts did not succeed, and, now that funds have been placed at his disposal from an unforeseen quarter, efforts on lines of continuity will be possible for providing our students as far as possible

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with suitable boarding accommodation, which is recognized to be an inseparable essential of sound education in the case of boys obliged to live away from their homes and guardians. Your Honour has always evinced a lively interest in this matter. His Excellency the Viceroy shares in this interest, as manifest from his recent private visits to some of our boarding-houses which has not only touched popular imagination, but has evoked genuine gratitude. And we have now solid, tangible and lasting proof of such intent. We are in great hopes that good boarding secondary schools in and away from Calcutta, will be a feature of our educational system ere long, and private efforts towards realization of this idea will find support and encouragement at Your Honour's hands. Private colleges are already receiving appreciable support, but private schools, which are no less an important part of the educational integer, cannot be longer left out in the cold.

"I gave notice of this motion in ignorance of the conditions attaching to the Imperial grant. In fact we did not even know the correct amount till the Hon'ble Mr. Küchler informed us this morning. These conditions just mentioned in Council being inelastic, I am afraid my resolutions would not be in order, and I would ask Your Honour's permission to withdraw them. In doing so, we have to express the sincere gratitude of the educational community for the munificence of the Government of India."

The Hon'ble Babu Deba Prasad Sarbadhikari moved the following Resolution :—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of Rs. 20,000, or such other sum as the Government may think fit, be provided for strengthening the David Hare Training College, with a view to training selected Inspecting officers and affording facilities for training teachers for private schools; and

(*b*) that the charges (Rs. 20,370) for re-organization of the Veterinary Service (page 18 of the Financial Statement, paragraph 52) be omitted from the Budget.

He said :—

"My proposal is for the purpose of strengthening the David Hare Training College, which is already doing excellent work in the shape of training teachers for our schools. This must not be looked upon as contribution to any particular branch of the educational service, for good teachers in all departments are a great need in the interest of sound primary and secondary as well as collegiate education, upon all which the University must ultimately depend. The Government has recognized by establishing the David Hare College, as well as the training school at Entally and training schools at other centres in the province, that the training of teachers is an important and essential factor in the educational evolution of a country. This has been neglected long, and though the first step has been taken, by no means adequate provision has yet been made for meeting the large requirements of the situation. It is only selected members of staffs of Government schools that can now have accommodation in these small institutions, and though, by the courtesy of the Principal and the Director of Public Instruction, now and again people, like myself, interested in private schools, have had opportunities of watching how the work is done, much to our gain and profit, yet in order that the whole of the educational machinery may suitably benefit, it is necessary and important that these facilities should be extended, though of course the whole of the requirements cannot be met all at once. I was no less sorry than surprised to hear the Hon'ble Babu Braja Kishor Prasad complain that some of the teachers from Bihar schools had to go for a short time to receive training in the training school, which he considered to be an unjustifiable interruption. I think that all schools that have opportunities of thus sending their teachers ought to be more grateful than otherwise for facilities like these. I mentioned the work of the new Froebel Society last year in connection with the training of teachers. That infant institution is manfully struggling against tremendous odds and is giving a good account of itself, as the Hon'ble the Director of Public Instruction, as well as the

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Educational Secretary of the Government of India, would be able to testify. I should much like it to be ensured against infant mortality, for it has a useful career before it. But the teaching of teachers is to my mind not the most important part of the work, and there is a still more important work in this direction which has not yet been attempted, and which I invite the Government to initiate as early as possible. In former years I had to direct my observations against growing inspection charges—observations which have largely been influenced by the consideration that education proper does not benefit by that inspection to the degree that would warrant the large expenditure, and that might fairly be expected under the circumstances. Not long ago the Hon'ble Rai Baikuntha Nath Sen Bahadur asked in this Council a question as to whether it was intended to take up the question of the training of inspecting officers, and the answer of the Hon'ble Mr. Cumming was that no scheme for training such officers has yet been prepared. As I read that answer, the Government may not be wholly oblivious of the necessity of having something done in this direction, so that full measure of work may be got out of the body of inspectors. As I read the answer it strikes me that though the scheme may not have been fully matured, some scheme is at hand. I see however no budget provision for the purpose, and it would be a help to all concerned if a definite provision were made and the scheme worked out according to the funds that would be at the disposal of the Director of Public Instruction. I trust that those who have unfortunately misunderstood my remarks of previous years with regard to the enhancement of inspection charges will appreciate that I am not opposed to these charges merely because they are inspection charges, but because I feel that education proper does not benefit thereby to the extent that we have a right to expect. In order that inspection may be a true help to teaching, the inspecting officers themselves ought to have some grounding and training in teaching. I thought so in my own personal behalf when I took upon myself association in the management of schools, and thought I was well and profitably employed in watching the interesting demonstrations in connection with the Training College, through the courtesy of the Director of Public Instruction and the Principal of the College.

"There is one item of increase under the heading of expenditure which I notice with gratification in this connection. I have incidentally mentioned this item before, and it has reference to a question that I asked in this Council in February last, *viz.*, with regard to the re-grading of inspectors who have been taken over from the District Boards, who have been long working with an indefinite place in the new service, and without being told as to what their status in the service exactly was. This expenditure will be a welcome addition to the inspecting charges, for it will really strengthen the inspecting machinery and bring us nearer to the time when, according to the statement of the Hon'ble the Director of Public Instruction last year, inspecting charges should cease to grow as soon as the full machinery was equipped and in working order. And these rejuvenated inspecting officers would be all the worthier for the special training which I submit they ought to have. I ask for a second grant-in-aid because the David Hare Training College, which trains teachers in the secondary schools, will not be enough for all requirements, and teachers in charge of primary education require no less looking after than the teachers in the secondary schools. Schools like those at Entally and Bankipur require strengthening, and it is because of the necessity of this special nursing that I seek to raise the budget allotment.

"I ask that this particular charge may be omitted. From inquiries I have found that the service of these Veterinary Surgeons are not so much in requisition as we are liable to think. District Boards, and other public bodies or individuals that are supposed to require their services, I believe, are not quite as anxious to get them as they are represented to be. The Veterinary Surgeons have already been placed on a sound and strong footing, and they have now enough to go on with their requirements. If this particular grant was withheld, and if it was applied to a pressing need, I think our Veterinary institution will not largely and irretrievably suffer. It is for this reason that I selected this particular item for omission in order to strengthen the training colleges."

Resolution.

[*Mr. Cumming; the President; Babu Deba Prasad Sarbadhikari; Mr. Küchler.*]

The Hon'ble MR. CUMMING said :—

"Sir, the Hon'ble Member desires that a sum of Rs. 20,370, which has been allotted in the budget of the Scientific and other Minor Departments for the reorganization of the Veterinary Service, should be omitted, in order that a sum of Rs. 20,000 may be available for an educational project. I shall shortly mention the facts regarding this reorganization. The creation of the Subordinate Veterinary Service, which is ultimately to contain 229 Veterinary Assistants, two for each subdivision of the province, was sanctioned by the Secretary of State in August, 1907. At present there are 76 such Assistants, and in the course of the development of this scheme Government propose to have 15 new appointments in 1911-12. The total provision under this head would then be Rs. 57,600, out of which a sum of Rs. 37,230 is expected to be recovered from the local bodies to whom the services of the Veterinary Assistants will be lent. The object of this scheme is a humane one; the scheme meets a real, existing demand for measures for the prevention and cure of the diseases of animals which form one of the chief assets of agriculturists. Moreover, it is a scheme in which Government and local bodies work in co-operation. In the interest therefore of the cultivators of this province and their cattle, I would deprecate that there should be any check on the not unreasonable development of this very desirable scheme which, as I have said, has been fully sanctioned by the Secretary of State."

The PRESIDENT said :—

"Does the Hon'ble Mover wish to offer any remarks?"

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I was expecting to hear some expression of opinion from the Hon'ble the Director of Public Instruction. I am met, no doubt, with the difficulty of the counterbalancing proposition, and, as the Hon'ble Babu Bhupendra Nath Basu pointed out, we are at a disadvantage in not knowing exactly what sums may be available or not, even if a particular proposition commends itself to the Government. I quite realize that difficulty, but my disagreement with what has fallen from the Hon'ble Mr. Cumming is not likely to influence the Council much. I feel that is a difficulty. I cannot very well make it a question of cattle against inspecting officers, and if the Hon'ble Mr. Küchler, who seems to be beaming with joy because of his abundance, will be good enough to provide out of that abundance some little assistance towards the improvement that I advocate, which really affects his department more than outsiders, I should not press my resolution."

The Hon'ble MR. KÜCHLER said :—

"May I be permitted, Sir, to make a few remarks. I would like to point out to the Hon'ble Member that the Government of Bengal have already submitted to the Government of India a proposal for strengthening the staff of the David Hare Training College. But I would add that it would be impossible to admit private teachers until all the teachers in Government employ will have received training. I would also like to say a few words with regard to the remarks on the subject of the working of the inspecting staff. As a matter of fact, the superior inspecting staff in the Indian Educational Service receive a course of training in England before they are sent out here, and with regard to the subordinate inspecting staff, there is already a system in vogue by which Deputy Inspectors and Sub-Inspectors are sent for a six weeks' course to the vernacular training schools. Of course, this system is not altogether satisfactory, but at the same time it is worth something, and I would also mention that the question of improving it is under my consideration."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I regret, Sir, that wild horses had to be employed in dragging this welcome information that the Hon'ble the Director of Public Instruction has been good enough to give me. My object was to draw attention to the prevailing state of things and the necessities of the situation which, I have no doubt, will be fully attended to."

The Resolution was then, by leave of the President, withdrawn.

Resolution.

[*Babu Deba Prasad Sarbadhikari; Mr. Kuchler.*]

The Hon'ble Babu Deba Prasad Sarbadhikari, before moving the following Resolution, with the leave of the President, withdrew sub-head (*a*) thereof—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of Rs. 10,000, or such other sum as the Government think fit, be provided for strengthening Training Schools under the Government;

(*b*) that a sum of Rs. 10,000, or such other sum as the Government think fit, be provided for the purpose of giving *bonuses* to *gurus* in aid of the cause of primary education; and

(*c*) that the superannuation charges (page 18 of the Financial Statement, paragraph 53) be reduced by Rs. 20,000.

He said:—

Sir, may I with your permission withdraw part (*a*) of this Resolution because that is covered really by the previous observation of the Director of Public Instruction."

The Hon'ble Member then moved sub-heads (*b*) and (*c*) of the Resolution, substituting the figures Rs. 10,000 for the figures Rs. 20,000 mentioned in clause (*c*).

He said:—

"There is a small item in connection with primary education that I ask for which requires a word of explanation. Formerly all students of primary—lower and upper—and of middle schools, used to be allowed to compete at public scholarship examinations, and *gurus* who could pass the most and the best boys used to receive rewards which were supplemented, I believe, by guardians in those good old days. Not long ago this system was discontinued, for reasons that must have appealed to the then Director of Public Instruction. The system since in vogue is that the inspecting officer visiting the schools selects one or two out of many would-be competitors from each school and the area of competition is circumscribed, the Inspector's work is needlessly added to, and the whole of the *guru's* work does not find the test of check at the public examination. He gets a phenomenally small pay, and the present state of things is little incentive to good work. Only one or two out of the best of his boys—at least those that the inspecting officer selects—have thus the opportunity of competing, and the others who may be nearly as good, are left behind. Under this system, the best boy of an indifferent school who may be positively bad compared to the residuum of the better school, is allowed to compete, and the benefits of a general competition are lost. I propose the restoration of the old system, so that the boys, their guardians and the *gurus* may all co-operate in the bettering of the primary schools. As it is, the primary schools are gradually losing strength, which will be little aid indeed to the development of primary education on a more expanded basis, towards which we are supposed to be moving. As an experimental measure, I therefore propose that a sum of Rs. 10,000 be provided under the heading of Bonus (p. 58 of the Educational schedule), for giving reward to *gurus*. *Gurus* are more or less superannuated. I thought that there might be some fitness of things in the bonuses coming out of the superannuation charges which, I believe, are estimated high, and if Rs. 10,000 were to come out of it, superannuation charges proper would not be affected, and some relief would be given to a very deserving and worthy but low paid body of teachers."

The Hon'ble Mr. Kuchler said:—

"I presume, Sir, that it should be dealt with on its own merits apart from its financial side.

"With regard to the proposal (*b*), I would inform the Hon'ble Member that since the abolition of the examination system, the *gurus* are remunerated in two ways, (1) by what we call subsistence allowance, and (2) by payments at the end of the year which are given at various rates determined by considerations such as attendance and the general character of the school. Of

Resolution.

[*Mr. Duke; Babu Deba Prasad Sarbadhikari; the President.*]

course, owing to the want of funds, the amount of these *bonuses* is small. At the same time, it is not apparent what good would result if Rs. 10,000 were distributed among 30,000 *gurus;* each *guru* would receive about five annas only, and the money would be entirely wasted."

The Hon'ble MR. DUKE said:—

"I am afraid that in the proposal for ways and means the Hon'ble Member has come up against even a harder rock than the Veterinary Department, because I may say that in estimating superannuation charges, we do not estimate wildly or for more than is tolerably certain to be required, and I have only got to remind the Council that we could not possibly refuse to pay any pension or gratuity which may become due under the Civil Service Regulations. It is in fact a contractual obligation. If our officers retire we are obliged by rule to pay them their pensions or gratuities to which they are entitled. I do not believe that it could possibly be suggested that we can offer them less or refuse them their pensions. It is therefore impossible that we should make any reduction on this."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I did not quite mean that five annas a head would be sufficient for the *gurus*, and thought that they might be given a more substantial *bonus*. However, as the rock of superannuation is unsurmountable, I think the *gurus* must go, and, along with them, my Resolution."

The PRESIDENT said:—

"I take it that the Hon'ble Member desires to withdraw his Resolution."

The Resolution was then by leave of the President withdrawn.

The Hon'ble Babu Deba Prasad Sarbadhikari moved the following Resolution:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that a sum of Rs. 3,000, or such other sum as the Government think fit, be provided for strengthening the staff of the Bethune College;

(*b*) that a sum of Rs. 3,000, or such other sum as the Government think fit, be provided for strengthening the Brahmo Girls' School, Calcutta; and

(*c*) that the charges for employment of additional professors, etc., in the Agricultural College, Sabaur (page 18 of the Financial Statement, paragraph 52) be reduced by Rs. 6,000.

He said:—

"Here I stand on a firmer rock, such as I hope will induce all opposition to disappear and cause the question of ways and means to be gallantly solved. The relief to Your Honour's Educational Budget this year is, however, a phenomenally 'unearned increment,' and the resultant surplus should find its way through other necessary educational channels, some of which I have indicated. How important and acute the education question is becoming will be abundantly clear from the great interest that all members of this Council are taking in it and from the number of resolutions bearing on it.

"The Resolution in connection with the strengthening of the staff of the Bethune College was practically forced upon us during the current year, and it is desired to bring this matter prominently before this Council, because the inspection report itself which has to pass in due course through the University will be long in coming before the Government. The Bethune College used to have teaching in Mathematics as a part of its College curriculum not long ago, and the results cannot be said to have been unsatisfactory. Curious as it may appear, sweet girl graduates seem to take more affably to dry mathematics and scientific subjects than a mere male man is apt to give her credit for, either because of his sense of superiority or of ignorance that

Resolution.

[*Mr. Küchler.*]

is no less ridiculous. When I and my fellow-inspectors went round the cramped classes, all four practically crowded in one room divided by an arched partition, the one striking feature of demand was for the addition of a Mathematical chair, and girl after girl rose in her place when asked as to who would like to take mathematics if it was allowable. There used to be an excellent mathematical professor before, and he has now been drafted on to head-master's work, which he is doing equally excellently. The Inspectors and Lady Principal agreed that the same Mathematics Professor could be restored to his former place, and other and not very expensive arrangements might be made for taking his place in the school. There are other directions in which the strengthening of that college is absolutely needful. I shall not refer to the question of accommodation, for the Government realizes its need and has already got land that is awaiting a building as soon as funds are forthcoming. But if for want of suitable curriculum and suitable staff the College gets weakened in the meantime, there will not be much need for the building that the vacant land to the west of the college is awaiting.

"While the Bethune College is doing excellent work there is one other institution in the metropolis which is also doing excellent work in aid of secondary female education. I refer to the Brahmo Girls' School, for which I am also asking for a small help.

"Their requirements are much larger than can be met by the Government grants which they already receive, and unless they get some more help they are wholly unable to carry on their good work. The suggestion for economy with regard to these grants affects the new Agricultural College at Sabaur, which is going to get its staff strengthened by, I believe, Rs. 18,000. I do not, of course, happen to know details of the arrangement proposed with regard to the strengthening, but I think that a fair start has been made in that college, and some more strengthening of the staff would be possible, even if Rs. 6,000 of that allocation be taken out, as I suggest. Such reduction is not likely to hurt the college, but will benefit two very deserving educational institutions intended for the advancement of female education."

The Hon'ble MR KUCHLER said:—

"Sir, the appointment of a Professor of Mathematics, which is apparently the one contemplated by the Hon'ble Member, has already been pressed upon me for several years by certain well-wishers of the Bethune College. The reasons which have determined me not to recommend this particular addition to Government are the following:—First, the relative expensiveness of the Bethune College, in that the proportion of professors to students is one to five, making it necessary to limit the number of subjects; secondly, if it be granted that such a restriction is necessary, it seems to me that mathematics is one of the most suitable subjects that can be left out of the curriculum. The arrangements to which the Hon'ble Member has referred, as emanating from the Lady Principal, cannot be founded upon his experience with regard to these matters which he must have gained as a member of the Syndicate. The Syndicate will insist, if the College is affiliated in mathematics, on the full time services of one Professor and the half-time services of another, and, therefore, I cannot understand what are the comparatively inexpensive arrangements which the Lady Principal is supposed to have suggested. Then, again, when mathematics were taught in the College, it was a most unpopular subject, and I must say that this sudden alleged demand for mathematics seems to me extremely suspicious. In fact I am almost inclined to attribute it to the contrarity of the female mind in desiring what is forbidden.

"With regard to the second proposal by the Hon'ble Member, I may point out that the Brahmo Girls' School already gets a liberal grant from Government, *viz.*, Rs. 500 a month. I do not think under the circumstances, and also considering the limited sum which is at my disposal for grants-in-aid, it is possible to accept the proposal made by the Hon'ble Member."

Resolution.

[*Mr. Cumming; Mr. Dip Narayan Singh; Mr. Küchler; the President.*]

The Hon'ble MR. CUMMING said:—

"Sir, the Hon'ble Member has proposed to reduce the allotment for the staff of the Bengal Agricultural College, Sabaur, by a sum of Rs. 6,000. In making this proposal, the Hon'ble Member is, I think, under the impression that new officers are to be appointed. The provision of Rs. 6,000 has not been made for new officers, but for the pay of existing officers. One of them was recently appointed, and others are entitled to receive certain increments of pay after 18 months' probation. There are four such officers who have returned from training in America. It is therefore hardly possible to make the deduction proposed."

The Resolution was then put and lost.

The Hon'ble MR. DIP NARAYAN SINGH moved the following Resoution:—

> This Council recommends to the Lieutenant-Governor in Council that a Committee, consisting of six non-official and four official members, be appointed to frame definite proposals for the disposal of the sum of Rs. 12 lakhs (portion of the special grant from the Government of India) permitted to be spent this year for educational purposes, subject to such conditions as the Government of India may be pleased to lay down.

He said:—

"I do not think that many words are necessary to recommend this resolution to the Council. The position is this—we have been fortunate enough to receive Rs. 12,00,000 (portion of the special grant from the Government of India), to be spent this year for educational purposes, subject to certain rules and conditions. These were not made known to us till to-day. I submit, gentlemen, that these conditions are elastic enough to allow my resolution to stand. This is the only time when resolutions can be put forward with regard to the different heads in the Budget, and it is in order that non-official members may not lose the opportunity of expressing their opinion—of submitting their views, on the question of the disposal of this large amount of money, that I have ventured to bring forward this resolution to-day. I am of opinion that the hands of Government will also be strengthened if non-official opinion and the views of the public at large are allowed some voice in the expenditure of this sum. I am not very particular as to the exact proportion of official and non-official members that should go to form the Committee. So long as I am assured that the non-official element will be fairly largely represented on the Committee, I am not unwilling to modify my resolution for its acceptance by the Government. With these few words I beg to place my resolution before the Council."

The Hon'ble MR KÜCHLER said:—

"With regard to the Resolution moved by the Hon'ble Mr. Dip Narayan Singh, I am authorized to state that the Government is prepared to accept the Resolution provided that the Hon'ble Member leaves the constitution of the Committee and the terms of reference to Government."

The Hon'ble MR. DIP NARAYAN SINGH said:—

"I am glad to do so, with the hope that the public will be allowed to have a fairly large measure of voice in the Committee."

The PRESIDENT said:—

"I will gladly give that assurance. The Hon'ble Member has proposed six non-official and four official members. I am not prepared to accept this proportion. With the modifications proposed by the Hon'ble Mr. Küchler, the Resolution is accepted by the Government."

The Resolution was then put in the following form and agreed to:—

> This Council recommends to the Lieutenant-Governor in Council that a committee be appointed to frame definite proposals for the disposal of the special grant of Rs. 24½ lakhs made by the Government of India for the purposes of education.

[*Mr. Slacke.*]

The Hon'ble Mr. Slacke introduced the following heads :—

Revenue—

XX—Medical.

Expenditure—

24. Medical.

He said :—

"On the receipt side, the revised budget, which amounts to Rs. 3,45,000 shows an improvement of Rs. 47,000 over the budget for 1910-11, which is mainly due to larger receipts from fees in the Medical College and to a special payment by the Port Commissioners for the Clayton fumigating apparatus, which was indented for by Government on their behalf. The budget for 1911-12 has been taken at Rs. 3,29,000. A further small enhancement under Medical College fees is anticipated, but the receipts from paying patients are slightly less than in the revised, and the special payment referred to from the Port Commissioners will not be repeated.

"Turning to the expenditure the Revised Estimate amounts to Rs. 23,74,000, which is Rs. 1,42,000 less than the budget. No orders were received from the Government of India as to the proposals for the improvement of the prospects of Civil Assistant Surgeons, for which a provision of Rs. 41,000 had been made. The delay is to be regretted, but the provision has been repeated in 1911-12, and it is hoped that orders will not be longer delayed. Further there were savings under salaries and under supplies and services. The budget for 1911-12 has been placed at Rs. 25,13,000 which is Rs. 16,000 less than the figures of the previous year. The most important new departure is represented by the provision of Rs. 14,400 for the special malaria enquiry. As the outcome of the Simla Malaria Conference, a Provincial Committee has been constituted for the supervision of systematic inquiries into the prevalence of this disease. This body will work in consultation with the Central Committee which the Government of India have appointed, and a special officer of the Indian Medical Service, with a subordinate staff, has been placed at its disposal. It is hoped that by continuous investigations upon the lines indicated by the Central Committee something will in time be done towards coping with this scourge. The item of Rs. 5,000 for commission to Civil Surgeons' clerks upon sales of quinine is part of the arrangement recently made to decentralise the distribution of quinine, with the object of popularising its use. District depôts under the supervision of Civil Surgeons have now been opened, and additional work has thus devolved upon their staff. The important work of the analysis of water samples has now been entrusted to the Sanitary Commissioner in place of the Chemical Examiner and the Professor of Pathology at the Medical College, and a small laboratory and two assistants have been placed at his disposal. It is proposed to revise the pay in the office of the Sanitary Commissioner, and a scale of allowances, as explained recently in answer to a question of the Hon'ble Babu Deba Prasad Sarbhadhikari, has been sanctioned for the assistants to the Chemical Examiner. The pay of the warders attached to the Berhampore Lunatic Asylum has been increased in order to attract a better class of men. The sum of Rs. 13,000 has been provided as a grant to the Lowis Jubilee Sanitarium, Darjeeling, to assist in an extension of the buildings. Lastly the provision for grants-in-aid towards plague expenditure has been reduced to Rs. 35,000, in comparison with Rs. 48,500 in the budget for the current year.

"The entries as regards buildings of the Medical Department are included in the Public Works Budget. The programme for the year is not an ambitious one, but the state of the finances has precluded a larger outlay. The fourth block at the Medical College will be completed, and fencing and hydrants will be erected in the compound. A residence will be constructed for the Civil Surgeon of Purulia, a station in which great difficulties exist at present in the way of housing accommodation, while the small hospital at Barrackpore for police cases is to meet a want which has long been felt. The hostel for female students at the Temple Medical School is calculated to encourage

Resolution.

[*Maharaja Manindra Nath Nandi.*]

their attendance by providing them with properly supervised accommodation which is now lacking, while the sum of Rs. 5,000 for the medical officer's quarters at the Burdwan Hospital is really a grant-in-aid towards the total expenditure of Rs. 15,000, the balance of which will be raised by the generosity of the Maharajadhiraja Bahadur to whose efforts the erection of the new hospital is largely due."

The Hon'ble Maharaja Manindra Chandra Nandi moved the following Resolution :—

> This Council recommends to the Lieutenant-Governor in Council that the provision under "24—Medical" for anti-malarial work be increased by two lakhs, a corresponding reduction being made in the lump provision under "45—Civil Works in charge of the Civil Department" for grants for works of sanitary improvement, and that out of this sum—
>
> (*a*) one lakh of rupees should be reserved and earmarked for the carrying out of experiments for the suppression of malaria, on the lines of experiments made within recent times in America and in Italy and other European countries, and
>
> (*b*) another lakh of rupees should be reserved for and applied towards the re-excavation and silt clearing, by the District Boards, of small channels for the outflow of water from villages where such channels have been silted up or entirely cloggod.

He said :—

May it please Your Honour—Before I advance any ground in support of the amendments that stand against my name I must reiterate the thanks to the Government of India that have already been expressed here and elsewhere for their liberal grant towards Sanitation and Education. This grant will enable your Government to take up much desired schemes in these two directions—schemes which, when perfected, will be productive of incalculable benefit to your Province. We only hope that such grant will be continued from year to year, and increased too in future years, as your Government establishes its claims by the judicious application of such grant.

"I now proceed to lay before Your Honour, in short, my reasons for the amendments I propose. The scourge of malaria is by far the greatest calamity of the country. It has sapped the energy of the nation, brought untold miseries at the door of every section of the community, and in particular to the under-fed cultivator, the poor artisan, and the homeless beggar. It is a scourge that has now spread far and wide from its original centres; it is one which is no longer peculiar to any subdivision, district or division, but which is everywhere to be found, not excepting well regulated municipal areas, not excepting even the metropolis of British India. Populous villages and cities on the banks of the Ganges, which fifty years ago were well-known health-resorts, have been depopulated; palatial buildings have been converted into masses of ruins, overgrowth with wild trees, and rank creepers; tanks, once the pride of their pious excavators, have, through inattention, caused by the depopulation of impoverished villages, been turned into hatching grounds of anophœlia and other insects that harbour malarious germs. The attempt of Government to combat this mighty giant is highly laudable; but he cannot be overpowered by a small force, and his ways and manners cannot be properly studied, with the object of his subjection, except by a large and competent army of scientific men. Other countries in both the old and the new worlds have entered into elaborate schemes for combating this monster, by draining off marshy lands, by killing the germ-developing insects in their brooding season, and by taking other precautionary measures. Scientific experiments on an elaborate scale are also conducted in other countries for the discovery of preventives and remedies, and have begun

to bear fruit. Let our resources be therefore equal to our needs, and let us shew that the tax we gather from the cultivator and the artisan is partly devoted to the amelioration of the sufferings brought on them by this dreadful monster.

"The latter part of my first amendment also aims at the same view. It will have direct operation in suppressing malarious fever in water-logged villages, while its indirect effect in promoting irrigation and cultivation is also not to be lost sight of. It is truly said that the construction of railways has largely impeded the natural outflow of water, and has clogged all minor water-channels, that the railway bridges have silted up many a navigable river, that the course of some have been diverted by reason of the main channels having been silted up, and that embankments erected for protecting railways have been additional causes for the prevention of the natural outflow of water and are fruitful and ever-growing causes for the increase of malarious fevers. What was once confined to villages, what was once never heard of beyond certain districts, soon spread all over Bengal and has been committing untold ravages in spite of quinine and the facilities for better medical treatment. In spite of all attempts to confine the scourge to the low marshes of its original birth it is now found in well known health-resorts in Bihar such as Dehri on-Sone and Arrah and has established itself in the far off cities of the Punjab."

The Hon'ble Mr. Slacke said:—

"The Hon'ble Member proposes a transfer of a budget provision of two lakhs with the object of stimulating action for the prevention of malaria. The measures which are undertaken with that end in view are of a two-fold character, namely, those concerned with the distribution of quinine, and those connected with schemes of drainage and sanitary improvement. The special budget provision of Rs. 20,552 on page 11 of the schedule attached to the Amended Draft Financial Statement, has reference rather to the machinery for inquiry into the prevalence of malaria and the best means by which to combat it. I have just stated in introducing the medical portion of the budget what has been done to create a Provincial Malaria Committee. The necessary provision has been made for the medical officer serving under this Committee and his subordinate staff, and although it is possible that the need will be found of adding to and improving this machinery, the immediate requirements as formulated by this Committee have been met, and, pending further experience of the course investigation should take, it is needless to set apart further sums for this purpose.

"As regards measures connected with the sale of quinine, the system of distribution has recently been overhauled, and district depôts have been established under Civil Surgeons which will, it is hoped, stimulate the demand. The Simla Malaria Conference deprecated the free distribution of quinine, except in the case of severe epidemics, and there is no intention of attempting this upon a general scale. Nevertheless it has been the practice since 1908 (and the results appear to justify its continuance), to depute medical subordinates for special duty during the fever season to specially malarious areas, and these men dispense the drug free, while a small experiment was tried in Purnea of giving quinine free to the less highly paid Government servants. The various Railway administrations have been urged to extend the distribution of quinine among their subordinates, although some of them already take action upon these lines. An experiment is about to be tried with the sale of quinine made up in treatments in place of doses, following the example of Eastern Bengal and Assam and the issue of quinine in tablets, as well as in the usual powder form, is a recent innovation which seems to be popular. Government is anxious to do all that it can to popularise the use of quinine, and if any well devised suggestion can be made to that end, such will gladly be considered, but there is no present need to make a further large budget provision on this account, and it will be seen from the statement in paragraph 59 of the detailed notes accompanying the revised financial statement that expenditure of this nature is at present met from the lump grant for sanitary improvements. This can

Resolution.

[*Mr. Dip Narayan Singh; the President; Maulvi Saiyid Muhammad Fakr-ud-din.*]

be done again if necessary, and so long as the provision remains as a lump allotment, nothing is gained by transferring a portion of it to another head.

"For the same reason, there is no object in making such a transfer in order that sanitary drainage schemes may be undertaken towards the prevention of malaria. If proposals on the lines indicated by the Hon'ble Member are formulated during the year, and accepted by Government (and in the absence of definite schemes it is useless to discuss details), it will be possible to finance them, in whatever proportion may be decided upon, upon the Budget as it stands. For instance, during 1901-11, Government has already, from the grant for sanitary improvements, assisted the Bagjola and the Bistupur Bhil drainage schemes, and proposes to help that for the Nawi-Sunthi, all of which projects were recommended by the Drainage Committee who investigated the matter solely from the point of view of the prevention of malaria.

"The wish which underlies the Resolution of the Hon'ble Member has been met in a substantial manner by the enhancement of the ordinary grant for sanitary improvements from 4½ lakhs to 9½, and to that extent aid can be given to any measures for the relief of malaria which are elaborated during the year and accepted as sound. In moving the Resolution, the Hon'ble Member has possibly been misled by the fact that the provision for sanitary improvements appears in the Budget for Civil Works in charge of the Civil Department, and not under Medical, but this is merely a matter of accounts, and the change he proposes (as interpreted above) is not necessary, even if it were decided to give effect to his wishes to the full amount of the expenditure indicated by him. I cannot, therefore, advise the Council, for the reasons I have given, to adopt this resolution."

The Resolution was then, by leave of the President, withdrawn.

The Hon'ble Mr. Dip Narayan Singh moved the following Resolution:—

> This Council recommends to the Lieutenant-Governor in Council that a Committee, consisting of six non-official and four official Members, be appointed to frame definite proposals for the disposal of the sum of Rs. 5 lakhs (portion of the special grant from the Government of India) permitted to be spent this year for purposes of sanitation, subject to such conditions as the Government of India may be pleased to lay down.

He said:—

"This is similar to my resolution regarding education, and subject to the same modifications as proposed by the Hon'ble Mr. Küchler, I think this resolution will be acceptable to the Government."

The PRESIDENT said:—

"I am afraid that there is a difference in the situation as regards this resolution and the former one. It is probable that Government will have reasons for not accepting this resolution. If, therefore, the Hon'ble Member has anything to say on the subject, we will hear him."

The Hon'ble MAULVI SAIYID MUHAMMAD FAKR-UD-DIN said:—

"I beg to support this resolution, Sir. The resolution is so very reasonable and sensible that no argument is necessary to support it. Your Honour was perfectly right in accepting the similar resolution about education, and we hope that this resolution will also be accepted at least with similar modifications. This resolution is perfectly innocent, and the views of the Committee will enlighten and enable Your Honour's Government to make the expenses under this head on a more satisfactory basis."

Resolution.

[*Khan Bahadur Maulvi Sarfaraz Husain Khan; Mr. Saiyid Wasi Ahmad; Mr. Slacke.*]

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSSAIN KHAN said :—

"I beg, Sir, also to support this resolution, and in supporting it, I wish to say a few words. The non-official members should have voice at least in the disposal of this fund. The Finance Committee was appointed for this purpose. And moreover, if the non-official members have some voice in the disposal of the fund, it will strengthen the hands of the Government. I am afraid there is a feeling that the non-official members are not consulted in matters of finance. Whatever voice they may have, it comes to nothing. I hope the Government will give due weight to that feeling, and act accordingly. With these few words, Sir, I beg to support the resolution."

The Hon'ble Mr. SAIYID WAISI AHMAD said:—

"I will only say one word, Sir. This resolution directly refers to the sanitation question, and if we are to have absolutely no voice when the allotments are made under this head, we shall be losing a great chance. To my mind it is a fair proposal that the non-official members should sit in Committee to discuss questions affecting sanitation. I hope, Sir, that the resolution will be duly considered by all the non-official members present here, and I see no reason why it should not be accepted by the Government. When a similar resolution by the Hon'ble Mr. Dip Narayan Singh has already been accepted with certain modifications, I do not see why the Government should raise any objection to its acceptance."

The Hon'ble MR. SLACKE said:—

"This Resolution, though confined to the special grant of Rs. 5 lakhs which has been given by the Government of India in the revised estimate for works of sanitary improvement in towns, might as well have included the other special grant of Rs. 4½ lakhs which since 1908-09 has been made annually for sanitary improvements generally, since the difficulties underlying the distribution of both allotments are the same. These were briefly indicated by the Financial Secretary in connection with the Revised Financial Statement for 1910-11, and they arise from the fact that it is not the case that the development of sanitation has as yet reached a stage in this Province in which there is a long list of fully considered schemes, towards which those locally interested are willing to contribute defined amounts, and which are only waiting a contribution from Government to enable them to be taken in hand. Were this the case the advice of a Committee might well be sought as to the selection of one project in priority to another, but even then this duty would fall within the province of the Finance Committee of Council, and there would be no necessity to convene a special body for such a purpose. It is not merely the fact that intimation of the recent grant from the Government of India was received at a late date, which has prevented the opinion of the Finance Committee being obtained in this connection. The real obstacle is in the absence of such a pending list of fully matured schemes. In connection with all projects of water-supply and drainage there are three main stages. A rough scheme has to be initiated by the local authority concerned, and a decision come to as to how it will be taken up and as to the manner in which it will be financed. To take the simplest case of a municipal work, the municipality has to decide how much it can afford to spend out of its ordinary revenue; how much it can afford to raise by way of loan; how much it can expect from the local liberality of private donors, and how much it desires to ask Government to contribute. This last amount must be in reasonable proportion to the contributions from other sources; Government does not, and cannot, undertake the whole cost of such works. After these details have been settled, and the scheme has been approved by the technical advisers of Government, the details have to be worked out, with the assistance of the Sanitary Engineer, and should the estimates show a material departure from the original rough plans, the financial position may possibly have to be reconsidered. Finally the whole proposal has to receive the approval of Government and the contributions from different sources realised. In a work undertaken under the Sanitary Drainage Act there would, of course, be other complications, which would still further protract matters. However

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[*The President; Mr. Dip Narayan Singh.*]

the general argument applies, and the important point is, that the Local Government is not now in a position to say what schemes will pass satisfactorily through these different stages in the course of the year. So much depends upon local difficulties, and sometimes upon local jealousies and apathy, that it cannot be foretold that a particular project will be pushed through in the course of the year. Government can only deal with the projects that come up, and it rests largely with the local authorities to ensure that they are sent up. If, therefore, a Committee was appointed as proposed, it would not be possible for them to make final recommendations. The Sanitary Engineer would state the projects upon which he is working and the different stages at which each has arrived, but it would not be expedient to attempt now to earmark the grant for particular works. This might only result in a large portion of it lapsing at the end of the year. During the current and preceding years, the Local Government, at the commencement of the year, caused inquiry to be made as to the schemes which were in a fair stage of progress, and then took steps to urge the local authorities to submit proposals. Presumably similar action will be taken during 1911-12, but the proceedings of a Committee would scarcely help. If any Hon'ble Member knows of any scheme which he desires to see undertaken, his best course is to co-operate with the local authority concerned in securing that practicable proposals are sent up, and the larger grant at the disposal of Government during the current year will enable a larger measure of assistance to be given. But a Committee seems scarcely called for, and were there a place for it in the present procedure, the duty of submitting recommendations should more properly lie with the Finance Committee of Council.

"I trust, therefore, that the Hon'ble Member, for these reasons, will recognise that this Resolution should not be adopted."

THE PRESIDENT said:—

"The plain truth is that if we appoint a Committee as the Hon'ble Member proposes, there is great danger that the grant that is given for expenditure in the ensuing year will not be spent within the year. There is not, as the Hon'ble Mr. Slacke says, a list of projects before Government which are fully matured and ready for immediate execution. I think that all that the Committee would be able to do, would be to call for projects and consider them; that would take an interminable time. I think the Hon'ble Members would do well to take the advice of the Hon'ble Mr. Slacke, and that whenever they know of any likely project being considered by the local authorities, they should do what they can to urge that project on in order that it may be submitted for the further consideration of Government at the earliest possible date."

The Hon'ble MR. DIP NARAYAN SINGH said:—

"I think, Sir, it will be very difficult for Government to make out a case why, when non-official members have been allowed a voice in the disposal of a certain amount for education, a similar privilege should not be extended to them in the disposal of the same five lakhs for sanitary purposes. Non-official members ought surely to have their say in this matter also; I submit that as the detailed expenditure of this sum has not been shown in the Financial Statement, we ought to be allowed to have some voice in the disposal of this amount. The measure which I propose is a mild one. The Committee is to consist of four officials and six non-officials, who will have power to frame proposals for the disposal of this sum. I cannot really see what opposition this resolution can meet with. I am certain that all my colleagues will support it. I hope the Government will accept it also with the modifications that were made in my resolution regarding education. With these few words I beg to submit this resolution for Your Honour's consideration."

THE PRESIDENT said:—

"The difficulty is that schemes come dropping in from time to time during the year. There are some schemes which we know are practicable, others are not so. It will be very difficult to hang up all these schemes for six months

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[*Mr. Dip Narayan Singh; the President; Rai Kisori Lal Goswami Bahadur.*]

or more. I am afraid it is difficult to give effect to the wishes of the Hon'ble Member. If we had schemes in preparation, a year hence the Hon'ble Member's proposals would be practical. But this is not the case. We have already found difficulty in providing for the satisfactory expenditure of the grant of 4½ lakhs which we have had for some years. If we are going to appoint a Committee in connection with the additional grant of Rs. five lakhs there will be great practical difficulties over this."

The Hon'ble Mr. Dip Narayan Singh said:—

"When those schemes of different sanitary projects are ready in the course of six months, will the Government be then pleased to form a Committee for determining as to which should be selected. This, I think, will not hamper in any way the hands of Government. It will also have the advantage of giving more satisfaction to the public than the other course of allotting sums of money to carry out schemes formulated directly by the Government."

The President said:—

"The Hon'ble Member is well advised. We entirely appreciate the object which he had in view, and we shall do what we can to give effect to it, but not in the form in which he proposes."

The Hon'ble Mr. Dip Narayan Singh said:—

"Having regard to what has been said by the President, I withdraw this resolution."

The Resolution was then, by leave of the President, withdrawn.

The Hon'ble Rai Kisori Lal Goswami Bahadur introduced the following heads:—

Revenue—

X—Registration.

Expenditure—

12. Registration.

He said:—

"The receipts under the head of Registration is estimated at Rs. 13,26,000, against the estimate of 1910-11 on that head, amounting to Rs. 14,87,000. On the basis of actuals of the first nine months of 1910-11, the revised estimate has been placed at Rs. 12,75,000. The receipts under Registration rise and fall in an inverse ratio to the agricultural prosperity or adversity of the Province. The comparatively good harvest of the year 1910-11 accounts for the diminution of the anticipated receipts—a circumstance which is not a matter of regret. The estimate before us has been made in the hope that the agricultural conditions of the Province will continue to be favourable, after making due allowance for the normal growth of revenue and the additional fees to be earned by the new registration offices to be opened shortly. The receipts of this Department being wholly provincial, the excess of receipts over expenditure goes to benefit the Province in matters unconnected with registration.

"The expenditure of the year has been estimated at Rs. 7,89,000, against Rs. 7,77,000, being the revised estimate for 1910-11 on the basis of actuals of the first nine months of that year.

"I invite attention to page 7 of the Revised Financial Statement from which the Hon'ble Members will see that, in pursuance of the policy to better the pay and prospects of the Ministerial officers, we have provided an additional recurring charge of Rs. 8,886 for the revision of establishments of several registration offices. A further sum of Rs. 6,000, which is also a recurring charge, has been provided, as you will find on page 4 of the schedule of new schemes, for the revision of the establishment of the office of the Inspector-General of Registration.

[*Mr. Duke ; Mr. Slacke.*]

"We have also been able to provide Rs. 35,000 for a new District Registration office building in Khulna. There are various other projects, notably the building of registration offices in rural areas where decent houses are not available, which are demanding our earnest attention, and which will be taken in hand so soon as the financial position of the Province improves."

The Hon'ble Mr. Duke introduced the following heads:—

Revenue—

XXIII—Stationery and Printing.

Expenditure—

30. Stationery and Printing.

He said:—

"The Revised Estimate of receipts shows a small improvement of Rs. 7,000, which is due to larger receipts from the sale of official publications. The Budget is taken at Rs. 1,42,000, which is Rs. 1,000 only in excess of the Revised.

"On the expenditure side, the Revised shows a saving of Rs. 1,33,000, as it is anticipated that less will be spent than was originally provided on the establishment of the Secretariat Press and on stationery supplied from the central stores. The Budget for 1911-12 has been placed at Rs. 13,79,000, which is Rs. 56,000 more than the Revised, but Rs. 77,000 less than the Budget of the current year. Economies are expected under the same two heads as have just been mentioned in the case of the Revised. The only new item of importance is the proposal for the revision of the establishment in the Jail Press on the lines already adopted in the case of the Secretariat Press, which is estimated to involve an additional outlay of Rs. 9,664 per annum.

"It is hoped that work upon the press block at the new Alipore Jail will be pushed on rapidly, and provision has been made on this account in the Public Works Budget of Rs. 1 lakh in the Revised and Rs. 3 lakhs in the Estimates for 1911-12."

The Hon'ble Mr. Slacke introduced the following heads:—

Revenue—

XXIX—Irrigation: Major Works.

XXX—Minor Works and Navigation.

Expenditure—

42. Irrigation: Major Works—(Working Expenses).

43. Minor Works and Navigation.

He said:—

"When introducing last year the Budget relating to irrigation works, the Hon'ble Member in charge explained to this Council the differences between protective, productive and minor works, and I will not, therefore, take up the time of this Council by recapitulating what was then said. The protective works are the Tribeni and Dhaka canals in the district of Champaran. The Dhaka canal was opened for irrigation in 1906-07. The Tribeni canal is still under construction, but will, it is hoped, be completed by June, 1912. A portion will, however, be opened for irrigation from the year 1911-12, and the receipts from, and the working expenses on, the completed portion will be provincialised, the interest charges being, however, treated as Imperial. This arrangement is to remain in force till 1912-13, when the whole question will again be considered.

[*Mr. Slacke.*]

"The works classed as productive are the Sone, Orissa, Midnapore and Hijili tidal canals. Unfortunately, none of the works in Bengal classed as productive have realised expectations. During the past few years, the net revenue from the Sone canal has been just sufficient to cover interest charges, but the gross revenue from the Orissa, Midnapore and Hijili tidal canals has only been slightly in excess of the working expenses. The net result is that these works now impose a burden of about 8 lakhs per annum on the Provincial Revenues. This, however, is better than the state of things four years ago, when the amount was over 10 lakhs. The revenue derived from these canals is chiefly from the rates levied for the irrigation of the rice crop, that under *rabi* being small except on the Sone canal. The revenue derived from tolls for navigation has in recent years considerably decreased owing to the competition of railways. The area of rice irrigation does not now fluctuate much, and that of *rabi* depends on the autumn rainfall. The area of rice now under irrigation is nearly the maximum which can be irrigated with the supply of water available. Every endeavour has been made to teach the cultivators to be more economical in the use of water, but only slow progress in this direction can be expected. The working expenses of the canals have been reduced to a minimum. The only method, therefore, of increasing the receipts and thereby decreasing the burden on provincial revenue, is to increase the rates levied for irrigation. These are very low on the Orissa and Midnapore canals. It will, therefore, be a matter for the consideration of Government to what extent the rates in the irrigated tracts can be increased. It must, however, be remembered that these canals constitute a valuable protection from famine, and avoid the necessity of expenditure in relief works in years of drought. The area irrigated from the Sone Canal during the triennium ending 1909—11 averaged 622,000 acres yearly.

"Owing to an early good rainfall, the receipts from major works will be slightly less than the Budget estimate. The decrease is chiefly in the Sone canal. From minor works and navigation, the receipts of which are shown under Budget head XXX, the chief source of revenue is from the tolls from navigation on the Calcutta and Eastern canals. These canals, which are partly artificial channels and partly improved and conserved tidal creeks, form the navigable routes for boats and inland steamers between Calcutta and Eastern Bengal. The capital expenditure debited to it up to date is about 85 lakhs. The gross revenue which averaged about 5 lakhs fell off considerably in 1909-10, owing to the damage which the cyclone of October, 1909 did to boats, and to a portion of the canal between Bamanghata and Khulti being closed for silt clearance. The expectation that during the current year the receipts will be better, owing to the opening in June last of the new chord canal between Ultadanga and Bamanghata, has not been realised, owing chiefly to the closure of the Bhangore Khal and the Chitpur lock for urgent repairs. The new canal, which I have referred to, is 10 miles long and is called the Kristopur canal. It is a convenience to boats using these canals, as it gives a still water reach from Chitpur to Khulti, a distance of 27 miles, thus avoiding the delay which used to occur in the tidal channel between Dhappa and Bamanghata. The Madaripur Bhil route, a channel connecting the Padda and Madhumati rivers, is now treated as a separate project. It is being deepened so as to make it navigable for inland steamers throughout the year. About two-thirds of the work of deepening the channel will be completed by this month, and it is expected that the whole length of the channel will be finished by March next. It is hoped that the net revenue will suffice to pay 4 per cent. on the capital expended. The distance by this route from Naraingunge to Khulna is 100 miles less than by the present dry weather route *vid* Barisal. This channel continues to be under the control of this Government till the close of the next year, when the present arrangement will be reconsidered. As regards the working expenses of major works the revised estimate shows an increase of about Rs. 1,40,000. This is due to an adjustment of total revision for establishments under Budget heads 42 and 43, to silt clearing and repairs to locks on the Hijili tidal canal, and to some special repairs on the Sone and Orissa canals. For the coming year the amount provided is that required in a normal year, and should not be exceeded unless unusual damage is done by floods. The

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[*Babu Deba Prasad Sarbadhikari.*]

expenditure on minor works and navigation, which is shown under Budget head 43, will be less than estimated. The decrease is principally owing to agricultural repairs and establishment. The revised estimate includes a provision of Rs. 30,000 for the Bagjola drainage scheme in the 24-Parganas. This expenditure is being met from the sanitary improvement grant. This scheme was examined into and endorsed by the Drainage Committee, and is one for draining a water-logged tract of about 22¼ square miles to the north of Calcutta. Owing to the fact that numerous local bodies were interested, it was decided that Government should construct the main drain at a cost of Rs. 1,28,439, leaving such local bodies to provide the necessary subsidiary channels. As no new works are under contemplation, the amount provided for expenditure during the coming year on minor works and navigation under budget head 43, is less than that of previous years. Provision is made for extending the existing and constructing new minor distributaries, so as to facilitate irrigation from the Orissa canal, for constructing dispensaries and quarters that are urgently required for the revenue establishment employed on the Sone canal and for completing minor distributaries, also for carrying on the work of improvement of the Madaripur Bhil Route. For training works on the Ganges in order to improve the navigation of this river in the dry season the sum of Rs. 40,000 is again provided. Similar work was carried out in 1903-04 to 1905-06, to the benefit of the steamers and boats using this river.

"For completing the lock at Ultabagh on the Peali river, the construction of which was commenced during the current year, Rs. 50,000 have been provided. The estimated cost was Rs. 81,000. This lock will give access to boats coming from the Sunderbunds and eastern channels through the channel in the Magra Hât scheme. There is a considerable trade chiefly in paddy between the Sunderbunds and Magra Hât, but at present it is much hampered for want of through communication for boats. The toll, which will be levied on boats passing through this lock, will, it is hoped, suffice to cover the maintenance charges and interest on capital. The Magra Hât drainage scheme, the benefits of which have already been stated in this Council, will, it is expected, be completed during the coming year. The cost of deepening the outfall channels of the Khas Tehsil Khals in the Midnapore district, is estimated to amount to Rs. 64,000. This expenditure will be spread over three years, and Rs. 25,000 have been allotted in the coming year. It is a work which will greatly benefit the agriculturists of the tracts concerned. For the completion of special repairs of the embankments in Midnapore, Rs. 75,000 have been provided, and Rs. 2,15,000 for improving the Bailaghye drain, also Rs. 53,000 for constructing sluices and gates in the Government embankments in Orissa. The amounts provided for the maintenance of the canals and drainage works, and for the takavi and Government embankments, are normal. It will be noticed that certain amounts under minor works are put down as in charge of the Civil Department. These are for the most part connected with the Embankment [of Act."

It being 6 o'clock, the President took the sense of the Council as to whether the meeting should be adjourned, or should continue until the business on the list be finished. The Council preferring the latter course, the consideration of the business on the list was continued.

The Hon'ble Babu Deba Prasad Sarbadhikari moved the following Resolution:—

> This Council recommends to the Lieutenant-Governor in Council—
>
> (*a*) that a sum of rupees two lakhs, or such other sum as the Government think fit, be provided for undertaking work in connection with the relief of the flooded Begua Hana tracts; and
>
> (*b*) that the provision of two lakhs of rupees* for the new Central Jail at Monghyr (page 20 of the Financial Statement) be omitted from the Budget.

* The provision in the amended Draft Financial Statement was Rs. 2 lakhs. In the Revised Financial Statement it is Rs. 370,000.

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[*Babu Deba Prasad Sarladhikari.*]

The following speech in support of this Resolution having been circulated to all Members of the Council before the meeting, it was, by order of the President under rule 34(2), taken as read:—

"In this connection I need not go over the whole of the ground that was gone over last year, for the remarks of the Hon'ble the Maharajadhiraja Bahadur of Burdwan, the Hon'ble Babu Bhupendra Nath Basu and myself, made it quite clear that something definite and expeditious was imperatively necessary for relief of the affected tracts. The Government did not dispute this position, and Your Honour was pleased to remark that there was a case of inquiry, though the specific proposition put forward in my resolution at the time was considered to be inappropriate. The resolution was withdrawn on the understanding that further inquiries would be made by the Public Works Department. Though several months passed and the season of trouble was approaching anew, the public had no idea as to what was being done or likely to be done about the matter. Shortly after the withdrawal of my resolution, the British Indian Association, which naturally takes great interest in these matters, addressed to the Government a representation, in which they pointed out as follows:—

'The loss of life of men and cattle and the damage to houses and crops, which have been caused almost annually by the floods of the Damudar river ever since portions of the public embankment on its west bank were abandoned in the fifties of the last century, have been a standing grievance of the people of a large number of villages. Their complaints and representations have been heretofore unavailing. The investigations regarding remedial measures made by Mr. Horn in 1902, and the sympathetic report submitted by him, have, the Committee understand, induced Government to devote their attention to the subject and to consider what could be done to afford relief to a large number of affected villages.

'The evil is caused by the bed of the Damudar having silted up and its channel having become too narrow to carry down the large volumes of water which flow into it during the monsoons. The volume and force of the water have gradually eaten into the land, and the flood spill, after leaving the old bed of the Damudar and finding its way through the breach at Begua, has brought into existence a river which, commencing at Begua and travelling over a distance of 30 miles, discharges itself into the Roopnarain at Pansuli.

'If this new arm of the Damudar, now known as the Begua khal, be maintained in an efficient condition, much of the damage could be averted. But the khal itself has been rapidly silting up during recent years, and the process has been accelerated and the evil accentuated by that physical law which makes it possible for the sand portion of the detritus to go on increasing till the mouth of the river is reached. It is furthermore a fact of common knowledge that the catchment-basin of the Damudar, impaired as it has been by the Railway bridge at Kola, has been rendered insufficient for receiving the surplus flood discharge of all the rivers and tributaries which fall into it.

'In these circumstances, the Committee submit that Mr. Horn's recommendations be fully given effect to, and that for that purpose the Begua breach be provided with a weir so as to help the flood waters of the Damudar to leave its new channel and seek its abandoned bed, and that the Kana nadi, which serves as an effective conduit, be connected with the Roopnarain at Baksi by cutting a small canal.'

"I am not prepared to put the technical aspect of the situation as enumerated by the Association against that set forth by the advisers of the Government. The Association may be wrong with regard to the exact scope of Mr. Horn's recommendations, their effect and their practicability. As a matter of fact, I believe Mr. Horn's scheme of 1902 was discarded as impractical, as the cost of 20 lakhs was considered to be prohibitive. Whether, having regard to the immense interests at stake and the terrible sufferings of the neighbourhood, this cost ought not to have been begun to be faced and spread over a number of years, is more than open to doubt. But since the scheme was discarded, its consideration may be useless speculation at present.

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[*Babu Deba Prasad Sarbadhikari.*]

It is possible that the British Indian Association failed to view the technical aspects of Mr. Horn's scheme aright in its representation, but the general soundness of the lines of the scheme has not been challenged in this Council or anywhere else. Suppose the prohibitive nature of the scheme stood in its way—and I am far from admitting that 20 lakhs of rupees is anything like prohibitive when the loss of so much life and property every year is concerned—there is one other scheme less efficacious perhaps and less costly than Mr. Horn's which was not sufficiently referred to by the Hon'ble Mr. Butler last year in reference to my resolution. I refer to Mr. Inglis' scheme. He thought it would be a help if the Begua breach was closed, and paved escapes were constructed on the river bank above or below, over which the necessary amount of flood water could spill. The cost of this scheme was estimated at nine lakhs, and the cost of an alternative scheme for construction of a weir across the breach, with a small spill weir below to relieve the pressure over the main weir at high flood, was estimated at six lakhs. It is apprehended on data, the full nature and extent of which has not been made clear, that Mr. Inglis' scheme would not only be costly but possibly injurious to the districts of Hooghly and Howrah. Such a catastrophe no one would willingly solicit or tolerate. If the second alternative scheme failed, people were anxious to know whether similar objections apply to the third alternative and less costly scheme referred to above. In this state of anxious uncertainty, and as the working season was fast drawing to a close, to be followed by another season of flood, I asked a question about the matter on the 18th February, when the Hon'ble Mr. Butler replied that a preliminary scheme for diverting the low floods of the Damudar had been prepared, and it was estimated that the cost would be about two lakhs with the subsequent eventual cost of one lakh and a half to two lakhs. Such a scheme we were told may be the means of decreasing the flood discharge through the Begua breach and restoring the dry-weather discharge of the Damudar to the parent channel below the breach. The work may proceed, we were further told, gradually, by first constructing a low-level weir across the Begua breach, forcing an increased discharge down the parent channel, helping in scouring it out and increasing its capacity gradually to raise the weir. After this process of raising goes on for some time, it is believed that a further expenditure would be necessary for excluding the low floods and decreasing the duration of the high floods in the now flooded area. It may be difficult to estimate the measure of good that will be derived from this scheme, but that is the only reasonable scheme at a moderate cost which the responsible expert advisers of Government, as a result of long and laborious research and persistent popular representation, have been able to frame, after discarding many others that have gone before. It is admitted, we believe, that the weir will be a great benefit to the people below Begua, and will ensure good water-supply throughout the dry season. This would be an incidental small mercy for which there would be room for considerable gratitude.

"There are important sanitary and agricultural aspects of the work which would give the scheme a fair hold on grants earmarked for sanitary and agricultural purposes. The scheme is the best, from some points of view, that we have been able to get up to now, and ought hardly to be delayed if the Government believes in its soundness. Even if the counterbalancing reduction that I propose in the event of this resolution being carried be not acceptable, funds may be found from other sources and the work begun. The scheme, we were told by the Hon'ble Mr. Butler, in reply to my question, was with the Commissioner of the Burdwan Division, with a view to consider the utility of the project and to ascertain whether the parties to be benefited should meet the whole or any part of the expenditure. To facilitate the escape of the high floods into the Rupnarain river a scheme, estimated to cost Rs. 65,000, provided that no compensation is necessary, has also, we were told, been prepared for retiring the embankments on both sides of the Bakshi khal. The scheme was not laid on the table, when my question of the subject was discussed in this Council, apparently for no other reason than that the question relating to the need or otherwise of compensation was being considered by the Divisional Commissioner. Whatever the need for compensation or

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[*Mr. Slacke.*]

otherwise may be, the need for the work itself is unquestionable, and the question of compensation and of apportionment and recoupment of costs which, as we gather from the answer to the question, is the only one now outstanding, is before the Commissioner. The scheme itself, so far as its engineering features are concerned, must be taken to be complete, sound and desirable, and if so, I venture to submit and press that it ought not to be delayed. Unless provision for it be made in the Budget, it will be impossible to take up the work early in the year, and I would beg of your Honour's Government to do all that it possibly can to expedite the work, so that a further year of avoidable devastation may be spared."

The Hon'ble MR. SLACKE said :—

"SIR, While not being able to admit the correctness of several of the assertions made by the Hon'ble Mover of the Resolution, I would point out to Hon'ble Members that, bearing in mind the answer which was recently given in this Council to a question which the Hon'ble Mover asked regarding this Begua Hana, *viz.*, that the preliminary scheme was before the Commissioner of the Division for consideration as to the utility of the project and to ascertain whether the parties to be benefited should meet the whole or any part of the expenditure, the position of affairs regarding this matter has not reached the stage when it can be said what sum should be allotted by Government. When that stage is reached, Government will undoubtedly do all that they consider necessary and right to minimize the inconveniences which these floods cause to the people dwelling in the area concerned.

"In regard to that part of the resolution which proposes a reduction of two lakhs of rupees allotted for the new Central Jail at Monghyr, it may be noted that the provision for the Monghyr Jail has been raised to 3·7 lakhs, in view of the change in the system of financing the scheme involved by the recent revision of the Provincial statement, as a result of which India have declined to finance it by loan.

"As regards the necessity for the scheme it may be summed up as follows:—

(1) The jail population of the province has been steadily growing for years and has now materially exceeded the accommodation available. Since 1900, with the exception of the year 1903, the daily average population has been in excess of the total accommodation available. There have been times when it was as much as 500 in excess. The figures for ratio of population to accommodation per cent rose to 104 in 1908 (and had previously touched this figure in two other years), and to as much as to 109 in 1909. Overcrowding means preventible mortality.

(2) There is no reason to anticipate that this growth will cease, but the contrary. Transportation to the Andamans for term-convicts has been stopped, and this will result in an acceleration of the process. In other words, allowing for casualties, Bengal central jails at the end of 10 years will from this cause alone have to find accommodation for not less than 500 additional prisoners (who would under the previous rules have been transported).

(3) Temporary relief had been found by retaining the old Presidency jail on the maidan and opening the new Presidency jail at Kalighat, as a supernumerary central jail. This, however, is a mere temporary measure. Government was pledged to surrender the old Presidency jail to the Victoria Memorial Trustees in 1912. Owing to difficulties of financing, which prevented a speedy disposal of the proposal for the new central jail at Monghyr, the Lieutenant-Governor has been reluctantly forced to intimate to the Trustees that they must no longer reckon on having the jail made over to them. Government, however, is extremely anxious that the delay in fulfilling its promise should be reduced to the least possible term—a sentiment which the public no doubt share. It may be added that, apart from the claims of the Victoria Memorial Trustees, the amenities of the capital in themselves demand the removal of the old jail from the maidan at the earliest possible moment.

Resolution.

[*Babu Deba Prasad Sarbadhikari; the President.*]

"In view of the above considerations, the Government of India and the Secretary of State have accepted the scheme for a new central jail at Monghyr as an urgent project, and, in view of its urgency, the Secretary of State has accorded his provisional sanction to the scheme, subject to the final examination of the detailed plans and estimates which have been sent up by this Government. The Secretary of State is being further asked to accord sanction by wire to the acquisition of the land required for the new jail and other preliminary arrangements. In short, the matter has advanced so far that Government cannot possibly consent either to a withdrawal or to a postponement of the scheme. In order that the Government pledge to the Victoria Memorial Trustees shall be fulfilled at the earliest possible moment, it will be necessary to provide year by year as large an amount as the Public Works Department can spend. This is estimated for the year 1911-12 at 3·7 lakhs of rupees, and this has accordingly been provided. For these reasons I cannot, therefore, advise this Council to accept the Hon'ble Member's resolution."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I did not quite follow the reply on the merits, and if I understand the Hon'ble Mr. Slacke aright, so far as the scheme itself is concerned, there does not seem to be very much to object to. The question now reduces itself to one of ways and means, and here, as on previous occasions, our difficulties are very great. Of course, I quite realize the necessity of providing a suitable central jail as soon as possible. But, at the same time, the other aspect of the question has no less an important bearing. For a long time Monghyr was badly affected by plague which was and, I believe, still is a reason for not immediately locating a big central jail there. That, however, is a matter upon which we feel hesitation in expressing any opinion, if the Government is satisfied that the jail can now be located there. The sum of 2 lakhs of rupees I ask for is to be released for the purpose of the Begua scheme. Our difficulty in making acceptable proposals for counterbalancing items is that we do not know enough of the details of the expenditure side and cannot lay our fingers on the right sums out of which our requisitions may be suitably provided for. I can assure you that it is not at all satisfactory to us to make haphazard and guesswork suggestions such as easily may be found fault with, as all our proposals have been to-day. In fact a larger provision has been made in the revised Financial Statement issued on Saturday last out of independent resources, for the jail, and if 1½ lakhs has thus been found, there ought to be no serious difficulty in providing another 2 lakhs. We do not know any better and have to make the best of the situation by way of strict compliance with the rules. We naturally fall back upon items that appear to us to be the most suitable, and we all make miscalculations which turn out to be a real and serious difficulty in the way of the acceptance of our suggestions. Even a trained financial expert would be liable to make such miscalculations and mistakes, in the absence of full and detailed information, with so little time and so few resources at his disposal. As matters stand, the abeyance of the Monghyr jail charges appear to be the fittest way of undertaking this work with the object of saving life and property, and, in spite of the explanation of the Hon'ble Mr. Slacke, I feel it my duty to press my resolution to a division."

The PRESIDENT said:—

"I wish to say that Government entirely appreciates the difficulties which the non-official Members evidently experience in indicating items under which reduction of expenditure can be made. That difficulty is not in any way the fault of the Hon'ble Members. It is due to the shortness of time which under the present system is inevitable. We are going to consider in the course of the year whether it is not possible to devise some means under which Hon'ble Members will have greater facilities at their disposal for the purpose of picking out items in which reductions are possible. I do not expect that they will be successful in finding many possible reductions, because there are

Resolution.

[*Babu Deba Prasad Sarbadhikari; Mr. Slacke.*]

few reductions that are possible, but that is in the nature of things. It is not probable that many items will be found which it is possible to leave out. Does the Hon'ble Member desire to put the resolution?"

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Yes, Sir."

The resolution was then put and lost.

The Hon'ble Mr. Slacke introduced the following head:—

Expenditure—

40. Subsidised Companies Land—etc.

He said:—

"The only expenditure on railways debited to Provincial funds in 1910-11 is under the head 'Subsidised Companies—Land', for land required for the Tribeni extension of the Bengal Provincial Railway. The agreement with the Railway Company provides that the Local Government shall bear the cost of any land required for this extension. The budget provision of Rs. 2,000 has been in the revised estimate raised to Rs. 4,000 to meet the cost of land now under acquisition, for which an estimate amounting to Rs. 4,268 has been sanctioned. For 1911-12, Rs. 150 has been provided for the acquisition of land required for an approach road at Magra."

The Hon'ble Mr. Slacke also introduced the consideration of the following heads:—

Revenue—

XXXII.—Civil Works.

Expenditure—

45. Civil Works.

He said:—

"I beg, Sir, to introduce for the consideration of this Council the budget relating to Civil Works. I will deal first with the revised budget under the head of Revenue. Under this head there is an increase of Rs. 45,000 due to the receipt, which was not anticipated, of arrear profits from the Darjeeling-Himalayan Railways.

"Under the head of expenditure there has been a saving of Rs. 3,11,817 due to the expenditure contemplated not having been effected. These savings mostly were due to the plans of the Khulna civil court building not having been finally settled, and to the sanction of the Secretary of State to the press building in the new Presidency Jail having been received very late in the year.

"Under Miscellaneous Public Improvements there has been an excess expenditure of Rs. 26,000, mostly due to the dredging of the Bhagirathi river.

"Allowing for a decrease under estimated profits from the Darjeeling-Himalyan Railway, the increase in the estimated revenue for the next year is mainly due to provision having been made for the payment by the Port Commissioners of the first instalment of the sale-proceeds of the Sibpur Engineering College, which will in course of time be made over to the Port Trust. The price agreed upon for the sale is Rs. 13,63,742.

"To the grant of Rs. 50,93,000 for the next year, there will be in addition a special grant for education from the Government of India. From the special grant will be met the expenditure necessary in regard to the Physics Laboratory of the Presidency College and the extension of this building to accommodate other laboratories, for which no provision has been made in the budget. Towards the establishment the Government of India contribute

Resolution.

[*Mr. Slacke; Maharaja Manindra Chandra Nandi.*]

Rs. 3,25,800, being 23 per cent. of the cost of the Imperial Works proposed to be carried out during the year by the establishment employed under this province. There is also a small contribution of Rs. 3,500 for work done for the Darjeeling Improvement Fund. Deducting these sums, the balance remaining is Rs. 9,89,700 as against Rs. 11,01,196 of the revised estimate of the current year. The decrease is mainly due to the transfer of the charges of the office of the Examiner, Public Works Accounts, from Provincial to Imperial. As compared with the budgets of the current and preceding years, there is an increase in the sum budgeted for repairs, buildings, and communications. This increase is necessary, since in recent years the sum allotted for repairs has been found inadequate. After deducting the expenditure necessary in the coming year for establishment, tools and plants, repairs, etc., there remain Rs. 23,13,300 for original works. After providing Rs. 11,18,700 for works in progress, the sum of Rs. 11,99,600 remains for new works not yet commenced. This has been distributed as follows :—

	Rs.
"Minor works costing less than Rs. 5,000	3,27,000
Major works	6,37,600
Reserves	2,35,000

"The amount for minor works will be placed at the disposal of Commissioners of Divisions and Heads of Departments. As compared with the grants for the current year under this heading, the increases have been provided for the Excise, Education and Medical Departments and the Commissioner of Police, Calcutta,—for the first, in order to provide for the extension of the contract distillery system which necessitates the construction of warehouses, etc., and for the other three, because, bearing in mind the list of pending projects, the grant of the previous year was inadequate.

"A provision of Rs 1,45,700 is made for the principal projects in connection with civil courts. Of this sum Rs 22,200 is allotted for the construction of a new Munsifi at Kendrapara, which is the only new work to be taken in hand in 1911-12. The balance represents the expenditure proposed on works started in the current year and now in progress.

"The existing Munsif's Court building at Kendrapara was constructed over 30 years ago, and was originally intended as a residence for an officer of the Public works Department. As the building was reported to be quite unfit for the purpose of a court-house, at the instance of the High Court, Government approved the construction of a new building as far back as 1907. Owing, however, to lack of funds, the work could not be put in hand. It is only one of several projects for new Munsifis; but it has been selected by the High Court as the most urgent of all these schemes, and provision has been made for it in the budget for 1911-12.

"With regard to the reserve of Rs. 2,35,000, one lakh is assigned to civil buildings, Rs. 15,000, for electric installations in public buildings in Calcutta, and Rs. 25,000 including Rs. 5,000 for arboriculture, to communications, for Munsifs' residences Rs. 26,000, for residences for the Local Government Rs. 25,000, and for those of Government officials Rs. 15,000, and for witness sheds Rs. 10,000."

The Hon'ble Maharaja Manindra Chandra Nandi moved the following Resolution :—

This Council recommends to the Lieutenant-Governor in Council that out of the reduced lump provision of Rs. 7,50,000 under "45—Civil Works in charge of the Civil Department" for grants for works of sanitary improvement, etc.,

(*a*) Rupees 1,00,000 be allotted to the district of Murshidabad in aid of the work of filling up marshy lands and hollow places;

(*b*) Rupees 25,000 be provided for the carrying out of special sanitary improvements and the taking of precautionary measures in places of pilgrimage, with a view to the prevention of the outbreak and spread of epidemic diseases; and

(*c*) another Rs. 25,000 be devoted to the construction of a suitable asylum for lepers.

Resolution.

[*Maharaja of Cossimbazar; Mr. Slacke.*]

He said:—

"May it please your Honour,—My amendment consists of three distinct parts. The first part of the amendment has for its object the suppression of malaria, and the amelioration of the condition of poor cultivators. In the district of Murshidabad there are large tracts of low and marshy lands, probably old channels of the Bhagirathi and other rivers. These have been turned into most unhealthy tracts of land, and, unless measures are adopted to drain off these tracts and steps taken to raise their level, these will be—as in many cases they have been—fruitful breeding grounds of malaria-producing insects. The sum I have asked to be devoted to this purpose is most inadequate, considering the magnitude of the work. But your Honour and my colleagues will, I hope, agree with me that it is better even to make a modest advance into the enemy's territory than to wait for years and years in the hope of getting more funds and thereby letting the enemy grow into much more formidable proportions.

"The second part of this amendment does not require, I hope, much commendation from me. It is a matter in regard to which Government has always acknowledged its liability and responsibility, for which there are special enactments, and in regard to which special precautionary measures are always taken in emergencies by District and Local officers. But, after all, funds are not adequately put into the hands of such officers. It is certainly desirable that, in places where there are yearly or periodical outbreaks of disease owing to the sudden influx of large numbers of pilgrims, the sanitary arrangements should be more perfect than at present, and that adequate permanent sheds for rest, suitable latrines, provision for good drinking-water, medical aid, and means for segregating the sick, should be provided.

"The third part of this amendment aims at a twofold object, the safety of the public, and the amelioration of the suffering of a large class of our fellow beings, I mean the lepers, whose sufferings appeal to all and who are subjected to the most pitiable neglect and often abhorrence by their fellow-brethren. The spread of leprosy is a menace to civilization, and I need not labour to establish the urgent necessity of providing for adequate means towards a matter which engages the earnest attention of all civilized Governments. The danger of allowing lepers to flock in large numbers to places of pilgrimage, to handle coin, to mix with the general public, to squat on ground where pilgrims go about bare-footed, and to use the water of the public tanks is untold. In Puri, for instance, the conditions for the spread of leprosy are very favourable at present. There, it is true, some philanthropic gentlemen have taken steps to house these unfortunate brethren of ours, but there is no segregation of the sufferers and they are allowed to go about and mix with the general public in the vicinage of the temple of Jagannath and in the streets all around. The Collector of Puri has appealed to the public for funds to build a leper asylum, and we cannot do better than strengthen his hands by the modest grant that I have advocated.

"With these few remarks, I beg to move the resolution standing in my name."

The Hon'ble Mr. Slacke said:—

"The Hon'ble Member's proposal for earmarking portions of the sanitary grant in favour of projects which are either undefined, or for which no working scheme has yet been devised, cannot, on account of such vagueness, be accepted by Government.

"The Hon'ble Member desires to reserve a lakh for filling up marshy lands and hollow places in Murshidabad, Rs. 25,000 for special sanitary improvements at places of pilgrimage, and Rs. 25,000 for the construction of leper asylums. If well-devised projects, which can be financed from local contributions in reasonable proportion, are submitted in the course of the ensuing year dealing with any of these points, they will undoubtedly receive consideration, but if money for all or any of them were specially reserved now, it is more than likely that the greater portion of it would lapse at the end of the year for the want of a definite scheme of expenditure.

Resolution.

[*Rai Baikuntha Nath Sen Bahadur.*]

"It is true that the Drainage Committee reported that portions of the Murshidabad district were very malarious, and they mentioned various drainage schemes which seemed feasible, but the only definite project which has as yet come before Government is in connection with the Bistupur Bheel, towards which assistance was given both in 1910-11 and during the current year.

"As regards places of pilgrimage, their sanitary improvement rests primarily IV with the local committees which work under the Puri Lodging House Act. The largest pilgrim centre in the province is Puri, and that town received Rs. 75,000 in 1907-08 towards its drainage works, and Rs. 1,04,000 in 1908-09 towards its water-supply. In the absence of definite proposals it is difficult to gauge the merits of other demands.

"The policy of Government in the matter of the care of lepers, apart from the Albert Victor Leper Asylum at Gobra which it maintains, is ordinarily to give capitation grants to asylums maintained by such non-official bodies as the Mission to Lepers in India and the East. Grants are made to asylums at Purulia, Raniganj, Asansol, Muzaffarpur, Bankura and Bhagalpur, and there is a budget provision of Rs. 17,810 on this account. As regards Puri in particular, an informal scheme for charitable relief to lepers was brought to the notice of Government in 1905, though no assistance from Provincial revenues was then asked for, and, in 1906, three charitable-minded donors of the Balasore district founded an endowment known as the Raj Narayan Das Endowment for feeding lepers in the Puri Leper Asylum. In 1907, Kumar Rameswar Malia gave a donation of Rs. 2,000 towards the construction of a hospital at the asylum, but although the provision of a more elaborate asylum seems to have been discussed in the Division in 1907, the idea never seems to have assumed a definite shape. The asylum at Puri has never been brought under the provisions of the Act, and since 1907 there seems to have been no further correspondence on the subject. The construction of leper asylums in the mufassal has not so far been undertaken by Government, and there are considerable objections to the assumption of such a liability."

The resolution was then, by leave of the President, withdrawn.

The Hon'ble Rai Baikuntha Nath Sen Bahadur moved the following Resolution:—

> This Council recommends to the Lieutenant-Governor in Council that grants to District Boards, under head "45—Civil Works in charge of the Civil Department", in augmentation of their resources, be made, with the condition that at least half the amount be spent for the repair and maintenance of village roads and communications, whether they be under the control and administration of such Boards or of Union Committees.

He said:—

"The agriculturists living in the villages form 75 per cent. of the population of the province. I am supported in making my statement by the census report of 1901. These agriculturists contribute 50 per cent. to the income of the District Boards in the shape of road-cess. But the village roads have not received fair attention from the District Boards. They have been neglected and proper care has not been taken of them. The agriculturists, therefore, do not derive any corresponding direct benefits for the payments they make. Of course, they are indirectly benefited, as the main roads of communication are maintained and repaired. But it is to be expected that these agriculturists, who form such a large proportion of the population, and who contribute so much to the income of the District Boards, should have direct benefit by the maintenance and repairs of their village roads and communications. Forty years have passed by since the cess was imposed. Past experience has shown that these matters have not been duly considered by the District Boards. Of course the District Boards complain of their chronic poverty. But now that the Government have been pleased to grant a certain sum to the District Boards, I desire that there should be

Resolution.

[*Mr. Filgate; Rai Baikuntha Nath Sen Bahadur; Khan Bahadur Maulvi Sarfaraz Husain Khan; Rai Kisori Lal Goswami Bahadur.*]

a condition attached to the grant, to the effect that the District Boards should spend at least half the amount for the maintenance and repair of village roads and communications. My object is that the money should be earmarked, and that the District Boards should be compelled to give effect to the condition. I hope I will not be misunderstood. I advocate the further development of the principle of Local Self-Government, and my object is not to handicap these Boards. My idea is that, with their money, *i.e.*, road-cesses, etc., the District Boards may have a free hand. But the same principle does not apply with the Government grants. The donor has a right to say that his money should be spent in a particular way, and nobody can blame the donor for that. With regard to that grant, I ask the Government to enjoin the condition of keeping the village roads in proper order. My resolution does not advocate any retrograde measure, nor does it intend in any way to diminish the powers or the choice of free action on the part of these bodies.

"There are two kinds of village roads—those under the direct control of the District Boards, and those under the Union Committees. The same condition might be attached to both these kinds of village roads. With these remarks I ask the Council to accept my resolution. I hope the landlords who are Members of the Council will consider this question from their point of view. The villagers form the backbone of the province, and it is but right that they should get some satisfaction for the funds they have been contributing for the last forty years."

The Hon'ble MR. FILGATE said:—

"Might I ask the Hon'ble Member whether his remarks apply only to the lower parts of Bengal or to Bihar also?"

The Hon'ble RAI BAIKUNTHA NATH SEN Bahadur said:—

"My resolution applies to the whole province."

The Hon'ble MR. FILGATE said:—

"I do not know whether village roads in Bengal have been neglected or not, but that is not the case in North Bihar. In North Bihar the District and Local Boards have carefully spent as much as they can on these roads—unfortunately, I have not got the figures here—but I am sure the amount must be very large indeed, which has been spent in keeping the feeder roads throughout the four districts in North Bihar in proper order."

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HOSSEIN KHAN said:—

"The same is also the case with South Bihar. I think the Hon'ble Rai Baikuntha Nath Sen Bahadur's remarks do not apply so far as Bihar is concerned."

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR said:—

"Your Honour, in 1905, the Government of India decided to augment the resources at the disposal of District and Local Boards by a grant from general revenues of an amount approximately equal to a quarter of the net road-cess receipts which form the bulk of the assets of District Boards. Accordingly close upon 9 lakhs of rupees are distributed among the different District Boards by Divisional Commissioners after considering the needs of each district. It is the intention of Government to give the Boards a wider discretion in regard to their expenditure, if it is satisfied as to the efficiency of the *personnel* of the Boards. I am sorry the proposal of my hon'ble friend tends to set back the hands of the clock of progress in the direction of Local Self-Government. He asks Government to lay down rigid rules as to the purposes to which the augmented grant should be applied. I am not prepared to say that District Boards have neglected to look after the needs of the rural areas committed to their care, and I cannot recommend the imposition of further restraints on the working of District Boards than what is already provided in the law. Government is seriously thinking as to whether the time has come for distributing the augmented grant to District Boards only on the arithmetical calculation of a fourth of the net road-cess receipts

Resolution.

[*Rai Baikuntha Nath Sen Bahadur.*]

of each district, and leaving to the Boards the absolute discretion to spend the grant according to the necessities of each district. The resolution of my hon'ble friend is a disagreeable surprise to me, in that he wan's Government to fix an uniform standard for all districts and impose a restraint on the discretion of the Boards. Surely what is wanted for the village roads in the district of Murshidabad or Burdwan, is not the same as in the case of Purulia or Sambalpur. If the elective system is properly worked so as to ensure the return of members to the Boards who are at first hand acquainted with the needs of the rural areas concerned, the village roads cannot possibly be neglected. The essence of Local Self-Government is that local resources are placed at the disposal of local bodies—which are mainly elected—for expenditure on local needs; and it would be an absolutely retrograde measure if Government were to say to each District Board, 'you shall spend at least half of the augmented grant for the repair or maintenance of village roads.' The total disbursements of District Boards in 1909-10 amounted to Rs. 72,80,200; of this, Rs. 30,24,448, or 41 per cent., was spent on 'Communication' (including both original works and repairs). Admittedly the greater part of this was spent on the maintenance of what are called the principal or arterial roads, and the rest devoted to village roads. The former cannot be neglected, as they form the most important lines of communication in the interior, and the claims of the latter are naturally considered to be of secondary importance. The general control over the budget of District Boards exercised by Commissioners is, to my mind, quite sufficient, and there does not exist any reasonable ground why this control should be further strengthened by earmarking in the manner suggested by the Hon'ble mover. I, therefore, cannot commend the resolution for the acceptance of Government."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said :—

"Some of my hon'ble friends from Bihar have informed Your Honour that village roads are not neglected in certain districts. The Hon'ble Member of Council (Rai Kisori Lal Goswami Bahadur), who has addressed Your Honour, has made special mention of the districts of Murshidabad and Burdwan. With regard to these two districts, I may say that the village roads are not kept in proper order. In making grants the Government will be in full possession of facts and figures, and, if it then appears that in certain districts the village roads have not been neglected, then there need be no such conditions so far as these particular districts are concerned. But with regard to those places, where proper care has not been taken of village roads, the question arises whether my resolution in any way interferes with the principle of Local Self-Government. I do not for a moment admit that it is a retrograde measure. I have only sought to make a distinction between two funds. I have already explained that with their money the Boards should have a free hand; but with regard to the money which comes as a grant from the Government, I think certain conditions should be imposed. I hope the Government will find its way to accept my resolution."

The resolution was then put and lost.

The Hon'ble Rai Baikuntha Nath Sen Bahadur moved the following Resolution :—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that grants should be made to Municipalities under head "45—Civil Works in charge of the Civil Department", with a condition that at least half the amount should be spent for repair and maintenance of roads; and

(*b*) that, if the foregoing proposal has the effect of causing the total expenditure of the Province to exceed the amount sanctioned by the Government of India, a counterbalancing reduction may be made in the estimates of expenditure under head "20—Police", sub-head "District Police Force", "Salaries" and "Police Force."

Resolution.

[*Rai Baikuntha Nath Sen Bahadur; Mr. Duke.*]

He said:—

"According to the existing law and the rules having the force of law, the municipalities cannot arrange in an adequate and sufficient way for the repairs and maintenance of the roads within the municipalities from their general fund. It is, therefore, absolutely necessary that for the proper upkeep of the roads the Government should be pleased to help those municipalities, and that with a condition. I need not repeat my arguments here as to why some condition should be imposed.

"As regards the second part of my resolution, there may be a counterbalancing reduction in the estimate for expenditure under the head '20—Police,' sub-head 'District Police Force,' 'Salaries' and 'Police Force.' Under that head we find that new officers are contemplated to be appointed and constables are proposed to be given an increase. The amount provided is very large, and the Government can somehow or other make some reduction under this head, and by doing that the Government will not be appreciably inconvenienced. I, therefore, beg to point out that this fund may be utilised to give effect to my resolution."

The Hon'ble Mr. Duke said:—

"From the financial side, Sir, I fail to see why the Hon'ble Member wishes to trench on the salaries of the district police force. His substantive proposal is that the money that is already granted to municipalities, should be granted with particular conditions. I was listening with some care, but I did not gather whether he really proposed to have the grant increased. I take it that he wants more money. He has been speaking all the time on the assumption that, with the present grant to municipalities, the condition which he wishes to press would not be possible, and he therefore contemplates that the grant should be increased so as to make that condition possible. He gives no idea as to what the amount might be, but I can say with absolute certainty that it cannot be obtained by trenching on the provision for the district police force, under the subhead 'Salaries of police forces' in any direction. The Hon'ble Member has mentioned the fact that there are some new appointments. It is rather a curious circumstance that the heads under which he proposes reduction already show decrease. It is true that the decreases which they show are to a great extent due to paper transfers.

"There is provision for three additional Assistant Superintendents which I have explained at some length already, but this is part of the scheme for bringing up the cadre of the Bengal force to the standard introduced by the Police Commission, and arrangements have already been made with the Secretary of State for the recruitment of these additional Assistant Superintendents. Probably the places have already been advertised. What else he would propose to do, I do not know. Leaving the addition of these Superintendents, there is no amount that can be deducted from either of these heads without dismissing or lowering the pay of the men already in the service of Government, officers or rank and file, and I do not believe that the Hon'ble Member seriously contemplates such a course. I do not think that the new scheme, the constables' rupee, to which he refers, comes within these heads, but the increment has to be paid, and I should be most loth to give it up. In the Police budget, I can only say that the degree of elasticity is this. With the utmost strain that we have been able to put upon it after two years that which ought to have been given at least three years ago,—and I do not think that this sort of elasticity which would result in so necessary a concession being hung up for another year—would be just or fair, or to the advantage of the administration."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said:—

"I will only say one word. A reduction has been made under the head Police force on account of proportionate savings in 1910-11. I think there will also be proportionate savings in 1911-12, and the money thus saved may be utilised for the purpose of my resolution."

Resolution.

[*Mr. Slacke; Mr. Duke; Rai Baikuntha Nath Sen Bahadur.*]

The Hon'ble MR. SLACKE said:—

"With regard to the substantive portion of the resolution the Hon'ble Member does not recommend the expenditure of a specific sum, but asks the Council to accept the principle that grants of unspecified amount shall be made to municipalities, with the condition that at least half the sum so given shall be spent upon the repair and maintenance of roads. The suggestion can scarcely be dealt with as a definite and practical one, and the principle only can be discussed That principle is one which Government cannot accept. In isolated cases, for special reasons, Government has made grants in-aid to particular municipalities for expenditure upon roads, and, in more frequent instances, though equally in special cases, it has given grants-in-aid towards schemes of water-supply and drainage. In other directions, *e.g.*, education, medical, veterinary, etc., municipal finances receive help from Provincial revenues, but the feature common to all such grants is the existence of special reasons. Government does not attempt to give anything in the nature of a general subsidy to municipal revenues, nor is it possible that it should do so. The following principles were laid down by the Government of India in 1902 as those which should govern the grant of assistance to local objects from Provincial funds, and they are those which are at present followed:—

"(*a*) As a general rule the entire cost of local undertakings should be borne by the ratepayers who benefit thereby.

"(*b*) The assistance of Government, when required, should usually be given in the form of a loan.

"(*c*) When the cost of an undertaking is too heavy to be wholly borne by a local body, even with the assistance of a loan, and the work is nevertheless so important and useful that it ought not to be postponed, a grant-in-aid from Provincial revenues might be permissible, provided that the local body was making full use of its power of raising revenue by local taxation.

"To depart from these principles would be to sacrifice the whole reason for Local Self-Government.

"Secondly, even assuming the grant of such general subsidy, as the Hon'ble Member apparently contemplates, it would be objectionable to rigidly earmark one-half of it in all cases for expenditure upon communications. To do so would be to ignore the wishes of the local representatives, and to refuse to give any weight to different local conditions and requirements. The need for efficient roads may be a very common one, and the provision of good roads may be an excellent object, but it does not follow that the need is felt equally in all municipalities.

"Thirdly, the Provincial finances are quite unable to stand such a drain upon them, and it would be useless to enunciate a principle to which there is no hope of giving practical effect. The Hon'ble Member is in error if he imagines that the recent revision of the Provincial Financial Settlement has so increased the local resources as to render it possible (even were it desirable) to embark upon a general policy of municipal subsidies. I cannot therefore recommend Hon'ble Members to adopt this resolution."

The Hon'ble MR. DUKE said:—

"I beg, Sir, to be allowed to give an explanation as to the suggestion about probable savings, and that is, they are already in the budget; they amount to Rs. 2,25,000 approximately."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said:—

"After having heard the Hon'ble Mr. Slacke, I believe grants will be made to the municipalities, and I am not at all willing to have conditions enjoined on the grant. I beg to withdraw my resolution."

The resolution was then, by leave of the President, withdrawn.

Resolution.

[*Mr. Dip Narayan Singh; Mr. Slacke; Mr. Duke.*]

The Hon'ble Mr. Dip Narayan Singh withdrew the following Resolution of which he had given notice:—

This Council recommends to the Lieutenant-Governor in Council—

(*a*) that the expenditure of the sum of Rs. 2,74,000 budgeted for 1911-12 under the head of "Courts of Law" (Legal Remembrancer and High Court Pleaders) be reduced by Rs. 74,000; and

(*b*) that a grant of Rs. 74,000 be made to the Municipality of Bhagalpur to set their water-works on a permanent basis.

The Hon'ble Mr. Slacke introduced the consideration of the following heads:—

Revenue—

XVIII—Ports and Pilotage.

Expenditure—

21. Ports and Pilotage.

He said:—

"I beg, Sir, to introduce for the consideration of Hon'ble Members those heads in the budget which relate to Ports and Pilotage.

"In the current year the revised figures show an increase of Rs. 65,000. This mostly falls under Pilotage and is due to a prosperous year. The estimate for the coming year, though higher than that of 1910-11 by Rs. 37,000, is less than the revised estimate for that year, since it is anticipated that there will be a decrease in receipts under 'Registration and other fees' and under 'Surveys', as the Government of Eastern Bengal and Assam have introduced a separate examination of masters, serangs, etc., under the Inland Steam-vessels Act, 1884, and have appointed an Engineer and shipwright for the survey of inland vessels at Goalundo.

Expenditure.—The revised estimate for the current year is less than the original estimate by Rs. 27,000, owing to the discontinuance, since the opening of the Dhubri-Gauhati Railway, of the subsidy paid to some steamer companies for the conveyance of mails, and to a reduction in touring charges for the *Rhotas*. The budget estimate for 1911-12 is less by Rs. 76,000 than the revised estimate for the current year, owing to the fact that in the current year Rs. 57,000 had to be spent on boilers for the *Guide*, and to a smaller provision being needed in the coming year for leave allowances. There are no new schemes of an important nature individually costing above Rs. 5,000 which require inclusion in the budget. Provision has been made for a revision of the office establishment of the Agent for Government Consignments, as the existing scale of pay is reported to be inadequate, having regard to the nature of the work and the increased cost of living in Calcutta."

The Hon'ble Mr. Duke introduced the consideration of the following heads:—

Revenue—

XII—Interest.

XXII—Receipts in aid of Superannuation, etc.

Expenditure—

1. Refunds and Drawbacks.

36. Reduction and avoidance of debt.

He said:—

"I have to deal, and with permission will deal, with that head No. XII on the receipt side,—Interest, and XXII—Receipts in aid of superannuation, and

Resolution.

[*Mr. Duke.*]

on the expenditure side, 1—Refunds and drawbacks, 29—Superannuation allowances and pensions.

"These heads do not call for detailed comment since 1909-10 loans to agriculturists have continued to be repaid more quickly than was anticipated, which accounts for the steady decline in the interest received on this account both in the revised and in the budget estimate. The decrease is satisfactory, as the rapid recovery of these loans is of course the best possible proof of returning prosperity. Otherwise the fluctuations present few features of special interest."

The Hon'ble MR. DUKE also introduced the consideration of the following heads:—

Revenue—

XXV—Miscellaneous.

Expenditure—

32. Miscellaneous.

He said:—

"I have to present the miscellaneous Head of the Budget which is No. XXV on the receipt side and No. 32 on the expenditure side. On the receipt side the revised figure was Rs. 6,90,000, or Rs. 52,000 less than the original budget. The decrease was principally due to the sale of the disused Jorabagan thana having realised somewhat less than was expected, but principally to a moiety of the price having been paid in the previous year, *i. e.*, earlier than was expected. There was also considerable falling off under 'Unclaimed deposits'; but this is a very fluctuating uncertain head over which we have no control. The budget figure for 1911-12 is again Rs. 8,000 less than the revised figure for 1910-11. The figures for 'Unclaimed deposits' have been raised to what is considered a fair average, but there is a great decrease in the item 'Sale of lands and houses, etc.,' as the only building expected to be sold during the year is the old Garden Reach thana.

"The increase in the sub-head 'Miscellaneous', which is put at Rs. 21,000, is due to the fact of our having a considerable number of elephants for sale, there having recently been a very good catch in the Angul kheddas.

"Turning to the expenditure side No. 32, the revised figure for 1910-11 (Rs. 3,44,000) is Rs. 1,54,000 less than the original budget which was Rs. 4,98,000. The greater part of the decrease is, however, due to the adjustment of His Honour's allotment for petty grants, which amounts to Rs. 1,00,000, under the heads to which it was actually allotted. The same thing happens to the provision of Rs. 1,05,000 for unforeseen charges, out of the total of Rs. 1,12,000 for miscellaneous and unforeseen charges, the expenditure being eventually distributed to the proper heads. The budget of expenditure for 1911-12 amounts to Rs. 6,03,000, an increase of Rs. 1,05,000 over the budget for 1910-11. The greater part of the increase is accounted for by the expenditure of Rs. 62,500 as a subscription to a vernacular edition of a weekly paper. The same cause accounts for the provision of Rs. 31,250 in the revised estimate. Government has long been convinced of the necessity of some measure to counteract the persistent misrepresentation of its motives, not to speak of the perversion of actual facts and occurrences, in the vernacular press. The object of this subscription is to secure the circulation in the mufassal, particularly amongst minor Government servants, school-masters and others connected with the administration, of a paper which may be counted on to supply genuine news and reasonable accounts and explanation of current events and of the acts and measures of Government. The measure is experimental. The subscription can be stopped if the paper does not answer expectations. It may or may not prove to be the most satisfactory way of

Resolution.

[*Mr. Duke.*]

accomplishing the end in view, but at any rate some step is urgently required, and this is the direction which has been selected as the most promising.

"For the rest the same allotment of Rs. 1,00,000 for His Honour's petty grants, and the lump reserve of Rs. 1,00,000 for unforeseen expenditure, have been provided as in last year. The provision for charitable donations has been raised from Rs. 1,22,000 to Rs. 1,54,000. The Calcutta Hospital Nurses' Institution has been exposed to severe financial strain, and Government has altered the terms of its previous subsidies and agreed to contribute at the rate of Rs. 3 for every rupee raised by private subscription up to a maximum grant of Rs. 75,000 in any year. A grant of Rs. 5,500 to the Lady Minto Nursing Association has also been provided. There are no other fluctuations under this head which appear to require special explanation."

The Council was then adjourned to Saturday, the 1st April, 1911, at 10-30 A.M.

F. G. WIGLEY,

Secretary to the Bengal Legislative Council.

CALCUTTA,
The 30th March, 1911.

B. S. Press—6-4-1911—4629J—350—W. M. D'C.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Saturday, the 1st April, 1911, at 10-30 A.M.

Present:

The Hon'ble SIR EDWARD NORMAN BAKER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble MR. F. W. DUKE, C.S.I.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble Mr. W. R. Gourlay.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Sir Frederick George Dumayne, Kt.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

INVESTITURE OF TITLES.

BEFORE the business of the Council was commenced, the President invested the Feudatory Chief and nobleman named below with the titles hereinafter mentioned:—

(1) Maharaja Sriram Chandra Bhanja Deo, Feudatory Chief of the Mourbhanj State in Orissa—The title of Maharaja as a hereditary distinction.

(2) The Hon'ble Raja Rajendra Narayan Bhanja Deo, of Kanika, Orissa—The title of Raja as a personal distinction.

The ordinary business of the Council was then proceeded with as follows:—

OATH OF ALLEGIANCE.

The Hon'ble Mr. Greer, the Hon'ble Mr. Garrett and the Hon'ble Mr. Stewart made the prescribed oath of their allegiance to the Crown.

QUESTIONS AND ANSWERS.

TEMPORARY PROMOTIONS IN THE PROVINCIAL CIVIL SERVICE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked:—

I.—(*a*) Is it or is it not a fact that the members of the Indian Civil Service and the Police Service (Superintendents of Police) enjoy the privilege of temporary promotions to the next higher grade during the absence, on leave, of officers in those services?

(*b*) Are similar privileges extended to the members of the Provincial Service, both Executive and Judicial?

(*c*) If not, will the Government be pleased to state the reasons?

[*Mr. Stevenson-Moore; Maharajadhiraja Bahadur of Burdwan.*]

The Hon'ble Mr. Stevenson-Moore replied :—

(*a*) "The answer is in the affirmative.

(*b*) & (*c*) The system of temporary grade promotion exists in the case of the Indian Civil Service and the superior Police Service for special reasons which are connected with the evolution of the conditions of those services and are not applicable to any Provincial service. Prior to 1868 when a member of the Indian Civil Service went on furlough (other than furlough on medical certificate) he vacated his appointment altogether and substantive promotion was given in his place. As a result of this system it was found that there was a tendency for officers to postpone their leave until their health broke down and they were compelled to take leave on medical certificate. This condition of things was not only unfair to the officers, but was detrimental to efficiency, since it is a condition of efficiency in a service recruited in Europe that officers should be in a position to enjoy leave in Europe to a reasonable degree. Accordingly in 1868 the system was changed, and an officer on furlough was allowed to retain a lien on his grade appointment. As a partial compensation for the loss of the substantive promotion which he had previously enjoyed, a *locum tenens* was given an allowance, now known as officiating allowance. The change resulted in a reduction in the pay of officers on duty taken as a whole, and this reduction was calculated as covering the cost of the increased furlough allowances. Similar considerations also operate in the case of the Imperial Police Service. On the other hand, they have no application to services recruited mainly in India, such as the Provincial Services (Executive and Judicial).

These services were never organised on a system of substantive promotion in furlough vacancies. All the Provincial services—Executive, Judicial, Police and Educational—are on the same footing in this respect. The system of officiating grade promotion is complicated and consequently expensive to work, and even were the necessity to arise in the future of devising means for improving the financial position of the Provincial services, Government would be unlikely to adopt this difficult and indirect method."

ALLEGED MISCONDUCT OF A RAILWAY OFFICIAL.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan, asked :—

11.—(*a*) Has the attention of Government been drawn to the Railway incident at Buktiarpur (reported by the *Amrita Bazar Patrika* of the 9th instant) about the violence committed on the 4th instant by a Junior Engineer of the East Indian Railway against the orderly of the Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan while travelling in a first class compartment in charge of his master's properties ?

(*b*) If so, will the Government be pleased to state whether any steps have been taken to prevent the recurrence of such incidents in future, and whether the conduct of the Sub-Inspector of Police, in connection with the case, has been taken notice of ?

The Hon'ble Mr. Stevenson-Moore replied :—

(*a*) "The attention of Government has been drawn to the alleged incident. A complaint was lodged before the Sub-divisional Magistrate, Barh, charging Mr. Speechly, a Junior Engineer, under section 336, Indian Penal Code (doing any act so rashly or negligently as to endanger human life or the personal safety of others). That complaint has been dismissed and entered as 'mistake of fact.' Government will now call for a report on the case, and, pending its receipt, is not prepared to say anything as to the accuracy of the newspaper account, which appeared when the case was under judicial investigation.

(*b*) Since the incident has been under judicial investigation, no such action has been taken by Government."

[*Maharajadhiraja Bahadur of Burdwan; Mr. Saiyid Wasi Ahmad; Mr. Stevenson-Moore; Babu Bal Krishna Sahay.*]

CONFERRING OF POWERS OF ASSISTANT COLLECTOR ON RETIRED MEMBERS OF THE PROVINCIAL SERVICE AND ON LAND-OWNERS.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadur of Burdwan, asked:—

III.—Has the Government any intention of adopting in this Province the practice of the United Provinces' Government of conferring the powers of an Assistant Collector on retired members of the Provincial Service (Judicial and Executive) and on land-owners?

The Hon'ble MR. STEVENSON-MOORE replied:—

"Government has no information regarding the practice in question, but is making inquiries."

CASE OF MAHBUB ALUM, SUB-INSPECTOR OF POLICE.

The Hon'ble MR. SAIYID WASI AHMAD asked:—

IV.—(*a*) Will the Government be pleased to state the circumstances under which one Mahbub Alum, a Police Sub-Inspector, employed in the district of Bhagalpur, resigned his service on the 4th June 1909?

(*b*) Is it true that, in spite of the Civil Surgeon's certificate recommending him for leave, he was, while suffering from fever, ordered to do his work by the Superintendent of Police, and under forced circumstances had no alternative but to resign?

(*c*) Is the Government inclined to reconsider his case?

The Hon'ble MR. STEVENSON-MOORE replied:—

(*a*) & (*b*) "Maulvi Mahbub Alum was appointed a probationary Sub-Inspector of Police on 29th May, 1908. A year later, it is reported, he had failed both at Thana and Court work, and it had been found necessary to attach him to the Reserve as a disciplinary measure. After about three months in the Reserve he applied for one month's privilege leave on account of ill-health due to dysentery. The Civil Surgeon was asked for an opinion, and reported that while the officer was not strong, he was making much of his illness, and that his dysentery was not so severe as to necessitate leave. The Superintendent of Police thereupon made a reference to the Deputy Inspector-General, requesting that Maulvi Mahbub Alum might either be transferred or discharged. Before orders were passed on this report, Maulvi Mahbub Alum submitted an application requesting either that he might be given one month's leave in anticipation of sanction or that his resignation might be accepted. On this application, his resignation was accepted. It is not the case that the Civil Surgeon recommended him for leave, nor does it appear that he was ordered to work while suffering from fever, and no such allegation is made in the memorial which he submitted praying for a reconsideration of the orders accepting his resignation.

(*c*) The answer is in the negative."

CIRCULATION OF THE BIHAR GAZETTE.

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

V.—Will the Government be pleased to state—

(*a*) how many copies of the Bihar Gazette are distributed free, and to whom? and

(*b*) how many copies are subscribed to?

[*Mr. Wheeler.*]

The Hon'ble Mr. Wheeler replied:—

(*a*) "A statement is laid on the table.

(*b*) There are no subscribers to the Gazette."

Statement referred to in the answer to Question No. V.

Bihar Hindi Gazette—Free List.

[Corrected up to 18th March, 1911.]

Register No.	Name and Designation.	Address.	Number of copies.	Remarks.
1	Secretary to the Board of Revenue, L.P.	Block No. 4, Writers' Buildings.	1	
2	Bengali Translator to Government of Bengal.	Writers' Buildings ...	1	
3	Hindi Translator to Government of Bengal.	Ditto ...	1	
4	Manager, "Hindi Bangabasi."	79, Harrison Road, Calcutta.	1	
5	Editor, "Bihar Bundhoo"	Bankipore ...	1	
6	Government Urdu Translator.	Allahabad ...	1	
7	Babu Sheo Narain Lal Sett, Honorary Magistrate, Hazaribagh Bench.	Hazaribagh ...	1	
8	Babu Ramyud Singh, Honorary Magistrate, Hazaribagh Bench.	Ditto ...	1	
9	Munshi Rohim Buksh, Honorary Magistrate, Giridih Bench.	Giridih ...	1	
10	Babu Hazarimull, Honorary Magistrate, Giridih Bench.	Do.	1	
11	Rai Thakuri Bhuwat Dyal Singh Bahadur, Honorary Magistrate, Chainpur Bench.	Palamau ...	1	
12	Revd. William Luther Daud Singh, Honorary Magistrate, Chaibassa Bench.	Singhbhum ...	1	
13	Captain Manki, Honorary Magistrate, Chaibassa Bench.	Ditto ...	1	
14	Captain David Joseph, Honorary Magistrate, Chaibassa Bench.	Ditto ...	1	
15	Sadu Manki, Honorary Magistrate, Chaibassa Bench.	Ditto ...	1	
			15	

[Babu Bal Krishna Sahay; Mr. Wheeler; Mr. Stevenson-Moore; Mr. Cumming.]

SUBSTITUTION OF THE DEVANAGARI FOR THE KAITHI CHARACTER IN THE BIHAR GAZETTE.

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

VI.—(*a*) Will the Government be pleased to inquire from the authorities and subscribers concerned whether the publication of the Bihar Gazette in the Devanagari character is preferred by them and the general public to the Kaithi character, in which the said Gazette is at present published?

(*b*) Is the Government aware that the Hindi-knowing public, who are able to give any opinion on legal or administrative matters, prefer the Devanagari to the Kaithi character, and find the former easier to read than the latter?

(*c*) Will the Government be pleased to consider the desirability of publishing all Bills and Laws in the Bihar Gazette in the Devanagari character?

The Hon'ble MR. WHEELER replied:—

(*a*), (*b*) & (*c*) "The question suggests the desirability of substituting the Devanagari for the Kaithi character in the printing of the Bihar Gazette. Government are not aware of any general wish for such a change, and it is not proposed to take action to that effect."

BIHAR GRIEVANCES.

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

VII.—(*a*) Has the attention of the Government been drawn to the article headed "Our wants", published in the *Bihari* of Bankipore, dated the 3rd March, 1911?

(*b*) Will the Government be pleased to state whether they are taking any steps to remove the grievances mentioned in the said article on the following matters, namely:—

(*i*) the suggestion that His Honour the Lieutenant-Governor shall spend three to four months every year in Patna, to be in immediate touch with the people of Bihar,

(*ii*) to open an M. A. class in the Patna College,

(*iii*) to give to the Patna College a Professor of Philosophy and Logic?

The Hon'ble MR. STEVENSON-MOORE replied to Question VII (*a*) and (*b*) (*i*) as follows:—

VII.—(*a*) "The answer is in the affirmative.

(*b*) (*i*) The policy of Government in this matter is well known. Both Sir Andrew Fraser and Sir Edward Baker have stated that while it will be the practice for the Lieutenant-Governor to spend some time each year in Patna, the suggestion that he should make a prolonged stay of three or four months is impracticable."

The Hon'ble MR. CUMMING replied to Question VII (*b*) (*ii*), (*iii*) as follows:—

VII.—(*b*) (*ii*) "The Patna College is not affiliated up to the M.A. standard. In order to obtain such affiliation, an increase to the College staff would be necessary, but this is not at present practicable. The object desired by the Hon'ble Member could also be secured by the appointment of University lecturers for the College. Proposals for the appointment of such lecturers are under consideration.

(*b*) (*iii*) Instruction in Logic is at present given in the Patna College. Philosophy was formerly a subject in the curriculum, but was exchanged for Political Economy and Political Philosophy on the receipt of a representation to the effect that there was no demand for the teaching of Philosophy."

[*Babu Bal Krishna Sahay; Mr. Butler; Mr. Cumming; Babu Braja Kishor Prasad.*]

IRRIGATION IN CHOTA NAGPUR.

The Hon'ble BABU BAL KRISHNA SAHAY asked :—

VIII.—Will the Government be pleased to state—

(*a*) what was the result of the investigation about irrigation in Chota Nagpur made by Babu Sarada Sunder Paul some time ago,

(*b*) whether there is any such scheme under the consideration of the Government, and

(*c*) if so, when it is likely to be taken in hand ?

The Hon'ble MR. BUTLER replied :—

(*a*) "It is suggested that the Hon'ble Member should refer to the reply given to a somewhat similar question asked by the Hon'ble Babu Kalipada Ghosh at the meeting of the Bengal Legislative Council on the 25th January, 1908. Since that date three of the most promising irrigation schemes in the Chota Nagpur Division have been investigated by Babu Sarada Sunder Paul. The investigations show that the probable revenue to be derived from these schemes would barely cover the maintenance charges.

(*b*) & (*c*) The reply is in the negative."

AMENDMENT OF THE CHOTA NAGPUR TENANCY ACT 1908 (BEN. ACT VI OF 1908).

The Hon'ble BABU BAL KRISHNA SAHAY asked :—

IX.—Will the Government be pleased to state whether any amendment of the Chota Nagpur Tenancy Act is in contemplation ?

The Hon'ble MR. CUMMING replied :—

"The answer is in the negative."

RETIREMENT OF MR. TWEEDIE, MANAGER OF THE NARHAN COURT OF WARDS, DARBHANGA, AND APPOINTMENT OF HIS SUCCESSOR.

The Hon'ble BABU BRAJA KISHOR PRASAD asked :—

X.—(*a*) Will the Government be pleased to state whether Mr. Tweedie, the present Manager of the Narhan Court of Wards in the district of Darbhanga is going to retire ?

(*b*) If so, when ?

(*c*) Will the Government be pleased to state whether the Ranee, the present proprietress of the estate, has been requested by the Collector of Darbhanga to allow a suitable pension to Mr. Tweedie ?

(*d*) Will the Government be pleased to state whether the Ranee has expressed her wishes to the Collector of the district and the Commissioner of the Division to the effect that she would be willing to allow Mr. Tweedie a pension of Rs. 200 a month, provided any Bihari Sub-Deputy Collector is appointed to succeed him on Rs. 400 a month, to be made up as follows :—Rs. 300 out of Rs. 500, the present pay of Mr. Tweedie, and Rs. 100 from the savings to be effected by curtailing any avoidable item of expenditure ?

(*e*) If so, will the Government be pleased to state whether it intends to give effect to the said wishes of the Ranee ?

(*f*) If not, will the Government be pleased to state its reasons ?

(*g*) Will the Government be pleased to state whether there is anything which stands in its way in the present case in giving effect to its policy as laid down in the Bengal Wards Manual, to the effect that ordinarily Deputy Collectors and Sub-Deputy Collectors should be appointed managers of estates under the Court of Wards ?

[*Mr. Cumming; Rai Shiba Shankar Sahay Bahadur; Mr. Wheeler; Mr. Stevenson-Moore; Dr. Abdullah-al-Mamun Suhrawardy.*]

The Hon'ble Mr Cumming replied:—

(*a*) "The answer is in the affirmative.

(*b*) It is understood that Mr. Tweedie will retire as soon as his successor is appointed.

(*c*) & (*d*) The local officers are in correspondence both with the proprietress and with the Board on the subject of the grant of a pension to Mr. Tweedie and of the appointment of his successor. Final arrangements have not yet been made.

(*e*), (*f*) & (*g*) Government have not yet received the final recommendations of the Board of Revenue with reference to the appointment of Mr. Tweedie's successor. When these recommendations are received, due attention will be paid both to the wishes of the Ranee and to the provisions of the Bengal Wards Manual so far as these considerations are consistent with the interests of the estate."

EXTENSION OF THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885 (BEN. ACT III OF 1885) TO THE SONTHAL PARGANAS, AND PARTICIPATION OF THAT DISTRICT IN THE ELECTION OF A MEMBER OF THE BENGAL LEGISLATIVE COUNCIL.

The Hon'ble Rai Shiba Shankar Sahay Bahadur asked:—

XI.—Will it please the Government to say whether it is in contemplation either—

(*1*) to extend at a near future date the provisions of the Bengal Local Self-Government Act of 1885 to the district of the Sonthal Parganas, or

(*2*) to order arrangements to be made under which that district may, like other districts of the Province, participate in the election of a Member of the Bengal Legislative Council under the Reformed Scheme?

The Hon'ble Mr. Wheeler replied to Question No. XI (*1*) as follows:—

XI—(*1*) "The answer is in the negative."

The Hon'ble Mr. Stevenson-Moore replied to Question No. XI (*2*) as follows:—

XI.—(*2*) "The principle which governs the arrangement of constituencies for the Bengal Legislative Council is not territorial but communal; its object is to secure representation of communities and interests. In the exercise of this principle the scheme provides four electoral organisations—District Boards, Municipal Commissioners, Landholders and Muhammadans. In all but the first of these the inhabitants of the Sonthal Parganas participate. It is not in contemplation to order any further arrangements to be made for the representation of the inhabitants of the district."

INTRODUCTION OF THE ELECTIVE SYSTEM IN THE LOCAL BOARDS OF BEHAR.

Hon'ble Rai Shiba Shankar Sahay Bahadur asked:—

XII.—Will it please the Government to say whether any, and, if so, what steps have been taken by them to introduce the elective system in the Local Boards of those districts of Bihar in which the Members of such Boards have hitherto been all nominated by the Government?

The Hon'ble Mr. Wheeler replied:—

"Inquiry is being made as to the desirability of introducing the elective system in the case of those Local Boards in the Patna, Tirhut and Bhagalpur Divisions, the members of which are at present nominated."

ALLEGED BRIBERY AND EXTORTION BY THE POLICE.

The Hon'ble Mr. Golam Hossain Cassim Ariff, in the absence of the Hon'ble Dr. Abdullah-al-Mamun Suhrawardy, asked:—

XIII.—(*a*) Has the attention of the Government been drawn to an article in the *Bengalee* of 21st March, headed "A case for inquiry"?

Mr. Stevenson-Moore ; Babu Kirtanand Sinha.]

(*b*) Is it true that a complaint in writing, charging the police with bribery and extortion, was laid before the District Magistrate ?

(*c*) If so, will the Government be pleased to state whether any inquiry has been held on that complaint ?

(*d*) If so, who held the inquiry and what was his finding ?

The Hon'ble MR. STEVENSON-MOORE replied :—

(*a*) "The answer is in the affirmative.

(*b*) "The letter which is printed in the article referred to above states that formal complaints charging the police with bribery and extortion were made to the District Magistrate and, further, suggests that they were of a nature which called for judicial inquiry, and that they were ignored by the district authorities. That statement and those suggestions are untrue. It is, however, true that certain informal petitions of the purport indicated were forwarded to the District Magistrate by post.

(*c*) "An inquiry has been held on the complaints referred to.

(*d*) "Since the petitions referred to were not complaints under the Criminal Procedure Code, the inquiries made were of a departmental character. They were conducted under the orders of the District Magistrate by various officers, among others the District Superintendent of Police, the Sub-divisional Officer, Kishanganj, and the Deputy Superintendent of Police, Kishanganj. On the reports of these inquiries the District Magistrate came to the finding that the complaints were baseless and had been made in the interests of certain suspected receivers of stolen property in order to obstruct the Police who were then engaged in working out a confession which was believed to implicate them, and that no further action was required."

RELIGIOUS INSTRUCTION IN GOVERNMENT SCHOOLS.

The Hon'ble BABU KIRTANAND SINHA asked :—

XIV.—(*a*) Is the Government aware that in the final Educational Code, United Provinces of Agra and Oudh, 1910 (paragraph 74), the following provisions have been made for the imparting of religious instruction to the boys in the Government schools?

"Religious instruction may be imparted in Government English schools subject to the following conditions :—

(*i*) The Head Master should set apart two half hours in the week for the religious instruction by a single instructor to boys whose parents wish them to receive it; provided that the parents can agree to the appointment of such an instructor and there is a class-room in the school available for the purpose.

(*ii*) The question of charging fees for religious instruction is left entirely to the community desiring it.

(*iii*) The religious instructor will keep a register of attendance open to inspection by the Head Master, and may report for punishment boys who play the truant.

(*iv*) The community will conduct all examinations in religious knowledge. The results may be communicated by the Head Master and may be read out by him at the annual prize-giving when any prize which the community may propose to award for proficiency in religious knowledge will be awarded by a representative of that community. Otherwise the Head Master will have no concern whatever with the progress in the religious knowledge of any scholar.

[*Mr. Cumming; Rai Baikuntha Nath Sen Bahadur; Mr. Stevenson-Moore.*]

(*v*) No Head Master on the school establishment may be engaged as a religious instructor.

(*vi*) The community concerned will be responsible for making arrangements which will be agreeable to the general public.

(*vii*) It is optional with the parents to have the religious instruction given to the children. Any parent desirous of having a boy instructed in religion will signify his wish in writing to the Head Master, who will then give permission to the boy to attend the classes."

(*b*) Will the Government be pleased to state whether there are any arrangements or provisions for imparting religious education to the students in any part of this Province?

(*c*) If not, will the Government be pleased to state whether it intends to consider the desirability of introducing provisions, like those in force in the United Provinces, in the schools and colleges in this Province, both Government and Private institutions?

The Hon'ble Mr. Cumming replied:—

(*a*) "Government are aware of the provisions to which the Hon'ble Member refers.

(*b*) Government have taken no steps to provide that religious instruction shall be imparted to students in any part of the Province. Government have not, however, issued any instructions which preclude the authorities of private schools or colleges from providing religious instruction in the institutions which they control. The authorities of unaided institutions are free to take such action in this regard as they think proper. In aided institutions religious instruction may be provided so long as it is not allowed to interfere with the ordinary school or college courses and attendance is not made compulsory in the case of pupils whose parents or guardians do not desire that they should attend.

(*c*) Government are prepared to consider the desirability of introducing provisions like those in force in the United Provinces, in the schools and colleges in this Province. There is not at present anything to prevent private institutions from providing for the religious instruction of their pupils."

THE RING-GAME PLAY AND HARI SINGH.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

XV.—(*a*) Has the attention of the Government been drawn to the article in the *Indian Daily News* of the 11th November, 1910, headed "Outlaws in Calcutta," and the article in the same paper of the 14th November, 1910, headed "What Mr. Duke said," in connection with the Ring-game play carried on by one Hari Singh?

(*b*) Has it come to the notice of the Government that, in spite of the ruling of the Hon'ble High Court that the Ring-game play carried on by Hari Singh did not come within the Gambling Act, he was unsuccessfully prosecuted by the Police on several occasions?

(*c*) Is it a fact that the Commissioner of Police does not allow the said Ring game to be played in Calcutta or its suburbs by the said Hari Singh, though others are allowed to do so without any interference by the Police?

The Hon'ble Mr. Stevenson-Moore replied:—

(*a*) "The answer is in the affirmative.

(*b*) Since the ruling of the High Court, Hari Singh has been twice prosecuted under the Gambling Act. The first prosecution was instituted under

the orders, not of the Commissioner of Police, but of the District Magistrate, 24-Parganas. On the District Magistrate coming to know that the game was the same as that described in the High Court judgment, he ordered the prosecution to be withdrawn, and this was accordingly done. The second case was instituted by the Commissioner of Police, who was of opinion that the game in respect of which he ordered prosecution differed from that described in the High Court's judgment, and was consequently not covered by that judgment. The trying Magistrate, however, did not accept this view.

(*c*) The answer is in the negative. Proceedings were instituted against other persons, also for playing the Ring-game, as it led on several occasions to breaches of the peace and violent assaults. The case of Hari Singh was brought to the notice of Government some time ago, and no action is now being taken by the Commissioner of Police against him in respect of the Ring-game."

BENGAL BUDGET FOR 1911-12.

The Hon'ble Mr. Duke presented the Budget of the Government of Bengal for the year 1911-12.

He said:—

"Sir, I beg to present the Budget of the Government of Bengal for 1911-12.

"The Budget has been sanctioned by the Government of India with the same figures which were sent up by this Government, and it differs in no material respect from the Budget as discussed in this Council on the last occasion.

"I therefore propose to say nothing further on the subject at present I understand, Sir, that you will fix the date for its further discussion."

THE CHOTA NAGPUR ENCUMBERED ESTATES (AMENDMENT) BILL, 1911.

The Hon'ble Mr. Slacke moved for leave to introduce a Bill further to amend the Chota Nagpur Encumbered Estates Act, 1876.

He said:—

"Sir,—I move for leave to introduce a Bill to amend the Chota Nagpur Encumbered Estates Act, 1876 (VI of 1876). When a landed proprietor applies for leave to have his estate brought under the protection of that Act, some time has to elapse before final orders can be passed on his application. Hon'ble Members will recognize the necessity of having such an estate protected from sale under a decree of a Civil or Revenue Court during the period when the application for bringing the estate under the Encumbered Estates Act is being considered; since, if this were not possible, the objects of the Act could easily be frustrated.

"Up to the time when the new Code of Civil Procedure, 1908 (Act V of 1908) came into force, the Commissioner of Chota Nagpur had, in virtue of a notification dated the 13th June, 1882, issued under clause 2 of section 327 of the former Code of Civil Procedure (Act XIV of 1882), power to grant such protection in respect of sales under Civil Court decrees, pending the passing of final orders on the landlord's application to have his property brought under the Encumbered Estates Act.

"The passing of the new Code of Civil Procedure rendered that notification invalid, and no provision exists in the new Code under which a similar notification could be issued.

[*Mr. Slacke; Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

"Legislation is therefore necessary to restore to the Commissioner the powers he had in this respect prior to the passing of the new Code of Civil Procedure.

"As regards decrees of Revenue Courts, the Commissioner has already, under section 206 of the Chota Nagpur Tenancy Act, 1908 (Ben. Act VI of 1908), power to prohibit the sale of tenures in execution of decrees for rent, and the Bill I desire to introduce proposes to give such power of prohibition to the Commissioner for the purposes of the Encumbered Estates Act in respect of *any* decree of a Revenue Court against the applicant, for in Chota Nagpur, as in Orissa, cases dealing with arrears of rent are dealt with by the Revenue Courts."

The motion was put and agreed to.

The Hon'ble Mr. Slacke introduced the Bill and moved that it be read in Council.

The motion was put and agreed to, and the Secretary accordingly read the title of the Bill.

THE CALCUTTA IMPROVEMENT BILL, 1911.

The Hon'ble Mr. Bompas moved that the preliminary Report and the further Report of the Select Committee on the Bill to provide for the improvement and expansion of Calcutta be taken into consideration.

The motion was put and agreed to.

The Hon'ble Babu Deba Prasad Sarbadhikari moved that the consideration of the Bill be postponed till the July session of the Council.

He said:—"Sir, I beg to move for the postponement of the consideration of the Bill till the July session of the Council, as there has not been sufficient time to consider the report of the Select Committee on the amended Bill. The Select Committee had thirty-four sittings, and, on the 4th March, the Hon'ble Mr. Bompas presented a preliminary report. This was an unusual departure, and the Hon'ble Member in charge explained that the Select Committee had introduced several important changes, and, pending determination of certain questions of taxation that had been referred to the Government of India, for which the rest of the report waited, it was considered better that the results of the labours of the Select Committee so far should be submitted to the Council and that the public should be given an opportunity of studying and criticising them. In view of the importance, complexity and extent of the Bill, as well as its far-reaching consequences, this was unquestionably a wise and proper step; but considering the diversity and importance of the changes introduced by the Select Committee, we feel that there has not been time and opportunity enough afforded for public criticism. This is no time to review the diversified, prolonged and interesting stages through which the Bill passed before introduction, to which the Hon'ble Mr. Stephenson shortly referred in introducing the Bill. But, when after the lapse of these long years, the Bill emanated seemingly full fledged, like the classic child of the Eastern fable, whose timely birth was delayed owing to the flight across of a monster bird, thirty-four days of arduous operation was necessary before it could be framed into shape. But the shape that such an operation resulted in is passed recognition. The Bill is in many important respects not the same as the one on which public criticism was invited and obtained. There have been important changes, in principle as well as in detail, in arrangement as well as in wording, and a careful study of the amended Bill discloses fresh points upon which it would be necessary and desirable to have further changes. Those who have made themselves responsible for the five hundred and forty-eight amendments on the Agenda—some of them no doubt misconceived owing to the hurry in which they had

to be prepared, and others covering the same ground—have approached their work in no light or obstructive a mood or without a due sense of the serious responsibility of the situation. A pressing sense of duty has compelled them to undertake this task, and, if they had more time to consider and confer, much of the ground would be cleared and monstrosities with suspicious family resemblance would disappear. This is one of the most important Bills that have come before the expanded Council—in fact the most important that has come before it so far, or is likely to come for some time. Hurry would really be much less economical than considered deliberation, if we are to avoid repeated condemnations and disapproval at the bar of public opinion and our Law Courts, such as are constantly attendant on some of our other Acts that were passed in a hurry in spite of protest. In the matter of such condemnation it will be no help that the framers of the present Bill, as well as its amenders in the Select Committee, have worked hard to let the High Court have as little as possible to do with the administration of the law when passed. I cannot too much deprecate this trend of the amendments which forcibly illustrate the extent and importance of the changes by the Select Committee. For my present purpose, I shall not stay to inquire into the numerous changes regarding the constitution and the powers of the Board of Trustees and the Tribunal that is to control the acquisition and the valuation under the Act and the procedure, though they are sufficiently far reaching and important to have called for and caused a long pause. The deletion of the appeal sections, modified and circumscribed as they were in the original Bill, would be about sufficient in aid of my present motion. The long-standing and long cherished statutory right of appeal to the High Court was taken away on the model of the Bombay panic measure which had to be legalised years later by a Validating Act. This validation was necessary in consequence of a case in the Bombay High Court years after the passing of the Bombay Act, but years also before the final publication of the Bill before us. In that case Sir Lawrence Jenkins, then at the head of the Bombay High Court, expressed a doubt as to whether the Provincial Legislature could give a modified right of appeal to the High Court from a newly-created institution—the Tribunal—which was at once more than, yet less than, a Court. With great respect for the authority from which it emanated, I have more than doubts whether such a pronouncement in that case, which was for an injunction against possession of certain lands being taken, would be viewed as anything more than an *obiter*—an *obiter* no doubt that the Hon'ble Mr. Erle Richards accepted and gave effect to in the shape of the Validating Act. But both the *obiter* and the Validating Act were before the framers of the Bill, and, with full notice thereof, they published the Bill (with the modified appeal sections that are now condemned and deleted) on which basis public criticism was invited and obtained. But that is not all. These proposals for modified appeal came up for opinion before the High Court,. which has got back Sir Lawrence for its head, and His Lordship and colleagues could not very well be supposed to be oblivious of his own pronouncement. And yet the High Court not only does not object to the retention of the modified rights of appeal allowed by the original Bill, but makes other recommendations connected with appeals, namely, that an appeal above Rs. 5,000 should be allowed subject to the limitations of section 100 of the Code of Civil Procedure, 1908 Act V of 1908), and that where the President of the Tribunal refuses to grant the necessary certificate for basing an appeal, the High Court under certain circumstances may itself grant such a certificate. And when this considered opinion of the High Court came before the Select Committee, instead of providing—in view of the Bombay case to which I believe attention was drawn—that the Tribunal *shall* be a court within the meaning of the Land Acquisition Act, 1894 (I of 1894), and merely shall not be *deemed to be so*, and instead of doing away with the objections for modification of section 54 of the Land Acquisition Act, the Select Committee cuts the Gordian knot by making the *award* of the Tribunal final, as if the Tribunal is an arbitration court, though the claimant is no willing party to such arbitration, and it merely makes section 54 of the Land Acquisition Act, which is the Appeal section, wholly inapplicable to the Improvement Act. This, I say, is revolutionising

and not changing the Bill, and what has taken the Select Committee thus much labour to achieve cannot possibly be assimilated and criticised by the lay public, unaccustomed to such measures and methods. Putting it at the lowest, the whole situation is more than doubtful, upon which careful and considered legal opinion is necessary, for what the local Legislature cannot give in a modified form it ought not lightly to take away even if it can.

"We are incidentally promised the security of some sort of an appeal in a casual remark in the report of the Select Committee—the likely gift of the Imperial Government; we do not know what view the Imperial Government, which is finding so much of the wherewithal, or the Imperial Legislature will be inclined to take of the situation. But we legislating here have a right to know as to how the appeal provisions are going to ultimately shape themselves in order to judge and decide as to how the attendant and incidental sections should be framed and worked. This Council would probably take one view of things if there is an appeal and another if there is none. Contingent legislation like that suggested would be alike objectionable and undesirable.

"For these and many more reasons that could be multiplied, I beg to suggest a short postponement. None in this room or out of it can be more anxious for speedy improvement of the plague spots of Calcutta than myself. In connection with the delay in proceeding with the measure of Improvement, I have often drawn the attention of this Council to the untoward results of hanging it up, for we live and suffer right in the midst of neighbourhoods which all foul epidemics, modern and ancient, visit first, infest the longest and leave the last, and in which even the pettiest of local improvements, after being solemnly passed and notified, were stayed because of the approaching Improvement scheme. Anxious as we are for expedition, we must see that the scheme proceeds on just working lines, to secure which I firmly believe more mature consideration of the amended Bill is necessary.

"I repudiate with all the emphasis that I can command the idea that the amendments of which notice has been given are intended to wreck the Bill in class interest or to overawe the Government. It is a foul calumny upon Your Honour's Councillors which they have never done anything to deserve, and also Your Honour's Government and Secretariat which are strong and resourceful enough to be able to deal with double as many amendments in half the time if there be need. But, not only is there no such need, but there is no justification for hurry under the circumstances. I, therefore, expectantly appeal for an opportunity for harmonising this motley of many shades and shreds into suitable texture and tint that will stand the test of time. We are not legislating for a period or a generation, but for many such, that will be saddled and burdened more than we know or they will be able to afford, if sufficient and scrupulous care be not now bestowed."

THE PRESIDENT said:—

"The motion of which the Hon'ble Member gave notice several days ago has received the careful consideration of Government, and the conclusion which my colleagues and myself have arrived at is that it is one which we ought to accept.

"Whether such a postponement is really required on the merits is, perhaps, open to doubt; for though the alterations introduced in the original Bill by the Select Committee are certainly somewhat numerous, they are not really difficult of comprehension; and one would have thought that any person who had attentively studied the Bill as first introduced would not experience much difficulty in mastering them, within the period of approximately one month that has elapsed since the Committee's first report was published.

"We have, however, been influenced by the fact that a strong body of public opinion undoubtedly exists which asks for further time for consideration of the Bill. In large measure this, no doubt, emanates from the land-owning classes, who are apprehensive that their interests will be adversely affected by the measure. I am not prepared to affirm, however, that the feeling

[*Babu Deba Prasad Sarbadhikari; the President; Mr. Saiyid Wasi Ahmad.*]

is confined to these classes only. This morning I received a memorial signed by four important public bodies in Calcutta, of which only one could be regarded as being specially representative of the land-owning classes—the British Indian Association. In any case, the extent of public feeling which asks for an adjournment is of such a character that it would not be right to ignore it or to attempt to override it.

"We have, therefore, decided to accept the Hon'ble Member's motion and to agree to the consideration of the Bill being adjourned till the rains session of Council. This course is not without its drawbacks, to which we are alive. It may be hoped that in the interval that will now be allowed to elapse the somewhat exaggerated apprehensions which now seem to be entertained in some quarters will have had time to die down; and that when the Bill eventually comes up for discussion, all parties will be prepared to approach it in a calm and reasonable spirit, with a full appreciation of the far-reaching benefits which, we hope, it will confer on the people of Calcutta."

The motion was put and agreed to.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"If it is permissible, Sir, on behalf of the community, I desire to convey to Your Honour the most heartfelt gratitude of the community for your considerate action. We do not care what happens to the Bill so long as it is properly considered."

THE PRESIDENT said:—

"I am obliged to the Hon'ble Member for his expression of acknowledgment of what the Government has done. I propose that the discussion of the Budget be held on Wednesday next, if that is convenient to Hon'ble Members. We will now take up the discussion of the Resolution of which the Hon'ble Mr. Saiyid Wasi Ahmed has given notice, and to which the Hon'ble Rai Shiba Sankar Sahay, Bahadur, proposes to move an amendment. A time-limit of one hour has been fixed for the discussion of this Resolution, and I would remind Hon'ble Members that, under rule 12 of the rules for the discussion of matters of general public interest, no speech shall exceed 15 minutes in duration."

RESOLUTION UNDER THE RULES FOR THE DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Under rule 23 of the rules for the discussion of matters of general public interest, the President assigned a time-limit of one hour for the discussion of the Resolution and amendment standing in the names of the Hon'ble Mr. Saiyid Wasi Ahmad and the Hon'ble Rai Shiba Shankar Sahay Bahadur.

The Hon'ble Mr. Saiyid Wasi Ahmad then moved the following Resolution standing in his name:—

This Council recommends to the Lieutenant-Governor in Council that it is desirable, in the interests of the administration of criminal justice in the Sonthal Parganas, that the attention of Magistrates exercising jurisdiction within that district should be drawn to section 340 of the Code of Criminal Procedure, 1898, so that, when an accused person wishes to be defended by a pleader, he should, as a matter of right, be allowed to be so defended.

He said:—

"Your Honour,—The resolution that I have the honour to move refers to a district which, if I mistake not, is not much widely talked of and is very little

known to the outside public. I would, therefore, very shortly, place before Your Honour and the Council its extent and constitution. The Sonthal Parganas is a large and important district in the Bhagalpur Division, and has five subdivisions besides the Sadar or Dumka Subdivision, which is the headquarters of the district, viz , (1) Deoghar, (2) Rajmahal, (3) Godda, (4) Pakaur and (5) Jamtara. The head of the district is styled 'Deputy Commissioner;' and the district is commonly known as a non-regulation district. It is administered by special enactments and regulations known as the Sonthal Parganas Regulations. The High Court of Judicature at Fort William having little or no jurisdiction over the district, except in cases which I shall allude to subsequently in my speech, the Divisional Commissioner exercises the functions of the High Court. There is one peculiar anomaly which I would like to mention here, *i.e.*, that the Deputy Commissioner is both a District Magistrate and a District Judge, and a Sessions Judge to boot, in certain matters, namely, for the purpose of hearing criminal appeals and motions; whereas there is a separate Sessions Judge for trying Sessions cases. As at present arranged, the District and Sessions Judge of Birbhum is also the Sessions Judge of the Sonthal Parganas only for holding Sessions at Dumka, the headquarters of the district. Criminal motions and appeals against orders passed by all classes of Magistrates are therefore heard by the Deputy Commissioner in his capacity both as a District Magistrate and a Sessions Judge. The Subordinate Magistrates in the Sonthal Parganas also exercise jurisdiction both in civil and criminal matters, the Subdivisional Officers exercising the functions of Subordinate Judges.

"The Commissioner of the Division exercises the functions of the High Court so far as the district is concerned, except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, and except in reference to proceedings against other persons so far as sections 374 and 379 of the Code of Criminal Procedure, 1898 (Act V of 1898) are concerned, in the case of the submission of a sentence of death for confirmation, of the postponement and commutation of a sentence of death passed on a pregnant woman (section 382, Code of Criminal Procedure), of appeal from, or a revision of sentence of death (Chapters XXXI and XXXII, Code of Criminal Procedure) and of an appeal from an original or appellate order of acquittal (section 417, Code of Criminal Procedure). He also exercises the functions of the High Court in civil matters where the valuation of the suit does not exceed one thousand rupees.

"Now, the reason that led me to bring forward this motion before Your Honour and the Council is the present unsatisfactory and undesirable manner in which the Magistrates in the Sonthal Parganas deal with applications presented on behalf of accused persons to be allowed to be defended by pleaders. Section 340 of the Code of Criminal Procedure lays down that 'every person accused before any Criminal Court may of right be defended by a pleader.' 'Pleader,' again, has been defined by section 4, clause (*r*) of the same Code, and, with reference to any proceedings in any Court the term means 'a pleader authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding.' 'The law for the time being in force' as mentioned in the above definition is the Legal Practitioners Act, 1879 (XVIII of 1879 , as amended by Acts IX of 1884, XI of 1896, and I of 1908. This Legal Practitioners Act has unfortunately not been extended to the Sonthal Parganas, and therefore a pleader as defined in the Code of Criminal Procedure has no legal status in the district. He cannot under the circumstances appear before any Criminal Court in the district, unless he is specially permitted to do so, and an accused cannot as of right engage him to get himself defended.

"Under Regulations III of 1872 and II of 1880, and by subsequent notifications thereunder (*vide* Bengal Government letter No. 5581J., dated 13th December, 1895), the entire provisions of the Code of Criminal Procedure are in force in the district, subject to certain modifications enumerated in

[*Mr. Saiyid Wasi Ahmad.*]

Chapter II of Regulation V of 1893, by one of which the jurisdiction of the High Court is restricted to certain proceedings, which I have already stated in the earlier part of my speech. *Primâ facie*, therefore, it would appear that section 340 of the Code of Criminal Procedure has got the same significance in the Sonthal Parganas as in Regulation districts. But, Sir, in practice we find it otherwise.

"The procedure adopted in the case of an accused person is that if he wishes to be defended by a pleader, he has to apply to the Magistrate to be so defended, and it rests with the Magistrate to allow or disallow the application. If the application is disallowed, the accused has two alternatives—either to go undefended or to secure a copy of the Magistrate's order, come to Bhagalpur, engage a pleader, and through him move the Commissioner against such order. I may mention here that an accused coming up to the Commissioner for such redress is seldom disappointed, and in almost all cases the Commissioner upsets such orders of the Magistrate. But Your Honour will agree with me that the procedure is unnecessarily inconvenient, harassing and expensive. And often it so happens that, by the time an accused secures an order from the Commissioner and engages a pleader to defend himself, half the case is finished. The ground on which such a procedure is adopted has already been stated by me before, viz., that the Legal Practitioners Act is not in force in the Sonthal Parganas. But though the Legal Practitioners Act is not in force, we find that by virtue of some law or procedure, a pleader is entitled to practise in criminal cases in which European British subjects are concerned as accused and defend them. This, I find, was decided so far back as 1883 by a Resolution of the Government of Bengal, Judicial Department, which is as follows:—

'Read a petition, dated the 5th July, 1883, from Babu Apurtha Krishen Pal, a pleader, in which he appeals against the orders of the Deputy Commissioner, Sonthal Parganas, which have been upheld on appeal by the Commissioner of Bhagalpur, deciding that he, the petitioner, is only entitled in the district of the Sonthal Parganas, to practise (1) in criminal cases in which European British subjects are concerned as accused, and (2) in Civil and Revenue cases in which the subject-matter is over Rs. 1,000.

'The petitioner prays that he may be allowed to practise ordinarily as a pleader in the district of the Sonthal Parganas without any restriction whatever.

'Read also a letter, No. 160J., dated the 13th September, 1883, from the Commissioner of Bhagalpur, and enclosure, reporting on the above petition.

'ORDER.—Ordered that the petitioner be informed that the Lieutenant-Governor supports the views of the Commissioner, both on the grounds of public policy, in a district like the Sonthal Parganas, and upon the wording of the present Code in force there. Mr. Rivers Thomson, therefore, declines to interfere in the matter.'

"This procedure restricts the employment of licensed lawyers to defend accused persons other than European British subjects, and virtually limits the operation of section 340 of the Code of Criminal Procedure. I do not for a moment contend that this procedure is illegal, but to my mind it is unfair, unjust and inequitable, and unnecessarily emphasises a distinction, and the sooner it is effaced the better for the good government of the country. In spite of the fact that the Legal Practitioners Act is not in vogue in the district, there is nothing illegal if the Magistrates there were to use section 340, Code of Criminal Procedure, in the same sense in which it is done in the Regulation districts, by allowing licensed lawyers to defend accused persons if they so desire, and thus remove all causes of hardship and inconvenience.

"I would not like to tax the patience of Your Honour and this Council by quoting instances, and the number is legion, in which there have been failures of justice on account of the accused not being allowed to be defended by a pleader, and of those in which people have gone up to the Commissioner for

[*Mr. Saiyid Wasi Ahmad.*]

redress. I may, however, content myself with giving one or two instances. The other day, Your Honour, there was a case before Mr. Streatfeild, our late Commissioner, which came up to him on revision. In this case the accused who was a son of a *Panda* of Deoghar, applied for permission to engage a pleader to defend himself. The permission was refused by Mr. Sunder, the Subdivisional Officer, and he was tried without getting any legal help. In the course of the trial the Subdivisional Officer admitted evidence as to the bad character of the accused, though such evidence in this case was absolutely irrelevant and inadmissible under the provisions of section 54 of the Evidence Act. The accused was convicted, and evidence which should not have been recorded at all was used against him. I refer to this case not as a typical instance, but as one that comes uppermost in my mind as being of recent occurrence. To my mind it is but natural that Magistrates exercising such plenary powers, as they do in the Sonthal Parganas, stand fully in need of the assistance of lawyers in trying cases; for we sometimes find that they display too fine a sense of appreciation of law and rulings in their judgment. Only in December last, in a case tried by a Deputy Magistrate of Dumka under section 209 of the Indian Penal Code (Act XLV of 1860), we find that in the judgment the Deputy Magistrate says of a ruling reported in 12 W. R. that, though it is a case bearing on the point before him, yet it was an old case and might have been over-ruled, and it is thus that he gives a go-by to a decision of their Lordships the Judges of the Calcutta High Court. Strangely enough, when the matter came up on appeal before the Deputy Commissioner, that officer in his judgment tried to differentiate the ruling in 12 W. R. from the case before him, but all the same supported the observation of the Deputy Magistrate that it might have been over-ruled, by giving an example from his personal experience to the effect that, in another case before him, one pleader appearing for one party quoted a ruling which the pleader appearing for the other side pointed out had been over-ruled in a subsequent case. Surely Magistrates who show such scanty respect to decisions of the High Court can hardly be expected to adhere strictly to law and procedure when there is no lawyer to draw their attention to them.

"I have no desire, as I stated before, to convince Your Honour and this Council by referring to a number of cases that have come within my experience during the last 14 years of my practice at Bhagalpur. I feel convinced that for a proposal like the one I have before this Council, it is not at all necessary for me to advance many arguments for its acceptance.

"Your Honour, the Sonthalis are fully alive to the concessions given them by the first proviso in section 2 of Act XXXVII of 1885 as amended by Act X of 1857 and Regulation No. V of 1893 in which it is laid down:—

> 'All civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general Laws and Regulations in the same manner as if this Act had not been passed.'

"And so it comes to this, that a man in the Sonthal Parganas can by right prosecute or defend his rights and title in Civil Courts through a pleader if the value of his suit exceed Rs. 1,000, but he cannot as of right get himself so defended if he is an accused in a criminal case, regardless of the charge or charges against him. Evidently, property in the Sonthal Parganas is more valuable than life and liberty.

"Your Honour my resolution suggests and recommends that this state of affairs in the Sonthal Parganas should no longer be allowed to exist, and that early steps should be taken to remedy a long-felt grievance of the inhabitants of this important district. Time has now come, and the Sonthal Parganas has sufficiently advanced, not to allow even one man there to feel that justice is not done to him in respect of his life and liberty."

[*Rai Shiba Shankar Sahay Bahadur.*]

The Hon'ble Rai Shiba Shankar Sahay Bahadur moved that the foregoing Resolution be considered in the following form:—

This Council recommends to the Lieutenant-Governor in Council that it is desirable, in the interest of criminal justice in the Sonthal Parganas, that when an accused person, whether he be a European British Subject or not, wishes to be defended by an Advocate, Vakil or Attorney enrolled by a High Court, or by a pleader authorised under the Legal Practitioners Act, 1879, by the Calcutta High Court to practise in the Courts subordinate to it, he should, as a matter of right, be allowed to be so defended.

He said:—

"Sir, the district of the Sonthal Parganas having been removed from the operation of the general laws and regulations by Act XXXVII of 1855 is governed under *clause* 2 of the said Act by special officers appointed by, and subject to, the direction and control of Your Honour. No general law or regulation passed by any authority howsoever high can have force in this district unless it is specially extended thereto by Your Honour. There is no appeal, no reference to any higher authority in any case whatsoever. In other words, Your Honour is the sole, highest and final authority, so far as the administration of this district is concerned. Such being the case, the people of this district naturally claim at Your Honour's hands more special considerations than the inhabitants of any other part of the Province under your charge.

"Unfortunately, Sir, the people of this district are suffering from many disadvantages and have many real grievances. One of them, with which we are concerned to-day, is that accused persons, who are Indians, are, in some cases at least, denied the right of being defended by professional lawyers—a right, Sir, which is never denied, I believe, to any other subject of the Crown, except perhaps under very extraordinary circumstances.

"Sir, the position in this district is that, whereas in proceedings under the Code of Criminal Procedure against European British subjects, the accused person can of right be defended by professional lawyers, such as advocates, vakils, attorneys of the Calcutta High Court and pleaders authorised to practise in the courts subordinate to it, the Indian British subjects have no such right under the rules in force there.

"The reason for this anomaly is that, where Europeans are concerned as accused persons, the final appeal lies to the Calcutta High Court, and the courts of the Sonthal Parganas with regard to such cases are subordinate to that Court. Therefore by virtue of the Legal Practitioners Act, which is in force in all courts subordinate to the High Court, the professional lawyers, such as I have enumerated above, have a right to appear on behalf of an accused person who engages them.

"But in those cases where the accused persons are Indians, except with regard to the cases committed to the Sessions, the final appeal lies to the Commissioner of the Bhagalpur Division who exercises all the powers of the High Court referred to in the Code of Criminal Procedure. The Calcutta High Court, not having jurisdiction, the Legal Practitioners Act is not applicable, and there is no provision under which the Commissioner of the Bhagalpur Division, like the Calcutta High Court, can enrol legal practitioners to practise in his courts and in the courts subordinate to him. The result is that in this district, while professional lawyers have a right to appear on behalf of an European accused person, they have no such right where Indians are concerned, except on obtaining special permission given in each case by the court under section 4, clause (*r*), sub-clause (*2*) of the Code of Criminal Procedure. Under the law this permission has to be given by the court which hears the case. In practice, however, I understand this permission is given or refused by the Sub-divisional Officer, which is technically illegal. But this is a minor matter. The main point is that under the rules in force there, the permission in each and every case is necessary before a legal practitioner can appear on behalf of

[*Rai Shiva Shanker Sahay Bahadur.*]

an Indian accused person. This permission is sometimes refused. The refusal of such permission causes considerable annoyance, harassment and expense to the party, and this has been amply and abundantly dealt with by my Hon'ble friend. But what I most respectfully, though emphatically, beg to submit is that, apart from the inconvenience, annoyance and expense to the party, as a question of principle, the engagement of a professional man depending on the sweet will of the presiding officer of a muffassil court is objectionable on other grounds. It has a demoralising effect both on the presiding officer and on the legal practitioner appearing before him on his sufferance. It is neither fair to the presiding officer nor to the professional man concerned. It is unfair to the presiding officer, in that it gives rise to most unfavourable criticism when permission is refused. It is unfair to the legal practitioner, in that insinuations may be made that he cannot fearlessly and faithfully discharge his duties to his clients—a thing so necessary in a legal practitioner, when his very introduction into the case is due to the favour of the presiding officer and subject to his sanction. The sooner this practice, therefore, is done away with, the better for all parties concerned.

"Even the Hon'ble Judges of the High Court do not exercise the right of sanctioning the engagement of a legal practitioner in each case, and of giving preference to one particular practitioner over another. They frame rules for enrolment, and any legal practitioner satisfying the requirements of those rules is enrolled and has a right to appear in every case in which he may be engaged, without any special sanction of the Hon'ble Judges. In Regulation districts, strictly speaking, that class of legal practitioners known as mukhtars cannot appear without special orders of the court, but, as a matter of practice, such sanction is presumed to be given in all cases without exception and they do not depend on the sanction of the presiding officer for their engagement.

"Sir, the aim and object of the resolution moved by my hon'ble friend is that, where an Indian accused person wishes to be defended by a professional man, he should, as a matter of right, be allowed to be so defended, and that the choice of his lawyer may not in any way directly or indirectly be influenced by the presiding officer of the Court, and that there is no reason why an Indian British subject of this district should be denied the privilege which is allowed to every British subject, European or Indian, under Your Honour's Government.

"To this extent, I fully and cordially support the object which my Hon'ble friend has in view. I beg, however, to point out that the resolution of my Hon'ble friend is vague and defective and, if accepted, will not go far enough to attain his end.

"In the first place, I do not think there is any meaning in drawing the attention of the Magistrates in the Sonthal Parganas to section 340 of the Code of Criminal Procedure, as the resolution proposes to do. The wording of the resolution clearly leads one to think that such Magistrates have been acting contrary to section 340, and that by drawing their attention to it, our object will be attained. My Hon'ble friend has himself pointed out that the action of these Magistrates is not illegal. If so, what is the object in drawing their attention to this section? The action of the Magistrates is, strictly speaking, not illegal. Their answer is—"You have no doubt a right to be defended by a 'pleader.' But, properly speaking, we have no 'pleaders' in this district for, as we are not subordinate to the Calcutta High Court, we refuse to recognize any pleader licensed by that authority, and there is no rule under which professional men can be licensed by any authority in the Sonthal Parganas like the Calcutta High Court. Therefore, though you have a right to be defended by a 'pleader' there being no 'pleader' here you must go undefended." The fact is that the rules are defective, and our complaint is not so much with regard to the operation of the rules as with regard to the rules themselves, which lead to most unjust and unsatisfactory results and which have to be set right.

[*Mr. Bompas.*]

"The next defect in the resolution of my Hon'ble friend is that he has not defined the word 'pleader' in the resolution. He does not say what he means by the word 'pleader.' If the word 'pleader' therein has the same meaning attached to it, as in the Code of Criminal Procedure, and as interpreted by the Magistrates, then we do not advance the cause of these accused persons a bit, and the object of the resolution will be frustrated. I have, therefore, in my amendment made the matter clear. If my amendment is accepted, the Indian accused persons in the Sonthal Parganas will have the right to be defended by exactly the same class of professional lawyers as the accused persons in other parts of the Province and as the European accused persons in the Sonthal Parganas are defended. I venture to think that there is no justification in treating them in a different way. Therefore, Sir, on behalf of the Indian accused persons of this district of the Sonthal Parganas—Sonthals and Dikus (*i.e.*, not Sonthals) alike, I most earnestly appeal to Your Honour for redress, and I appeal to my hon'ble colleagues of this Council, both official and non-official, to join me in this appeal to Your Honour, and I feel, Sir, that I do not appeal in vain.

The Hon'ble MR. BOMPAS said :—

"Sir, I have been asked, as a former Deputy Commissioner of the Sonthal Parganas, and one who is therefore acquainted with the local circumstances of that district, to explain to the Council what is the actual practice prevailing there in regard to the employment of pleaders in criminal cases and the circumstances which have led to that practice being adopted.

"I would begin by saying that I am glad that the Hon'ble Rai Shiba Sankar Sahay Bahadur has moved his amendment, because I must take strong exception to the terms of the original motion. That motion runs to the effect that the attention of magistrates in the Sonthal Parganas should be drawn to section 340 of the Code of Criminal Procedure. The magistrates in that district exercise jurisdiction in courts established by law and are drawn from the same services as magistrates who exercise jurisdiction in other districts. They have probably been transferred from courts outside that district to the courts within it. I myself, before I was Deputy Commissioner of the Sonthal Parganas, was for a year District and Sessions Judge of Birbhum. In both capacities, I exercised criminal appellate powers. I think that the Hon'ble Member would scarcely consider it becoming to move that the attention of the Sessions Judge of Birbhum should be drawn to the Code of Criminal Procedure and I fail to see why it should be more fitting to do so in the case of an officer of equal rank in the Sonthal Parganas. But, in fact, in his speech he has taken the sting out of any thing that might be implied in his motion, by the admission that the procedure followed in the Sonthal Parganas is strictly legal in view of the fact that the Legal Practitioners Act is not in force in that district. That is the real gist of the question, and that is the difficulty which is met by the amendment of the Hon'ble Rai Shiba Sankar Sahay Bahadur.

"The administration of the Sonthal Parganas is different from that of the rest of Bengal, and the origin of that difference lies in the history of the district. The district was formerly a tract of jungly land lying between Bhagalpur and Birbhum. During the first half of the 19th century that jungle was rapidly cleared and occupied, mainly by Sonthals. The whole of the northern portion of that tract was administered from Bhagalpur. The ordinary courts exercised jurisdiction and the ordinary laws and regulations were in force. As is too often the case in backward districts and among a backward people, those laws and regulations were abused, the procedure of the courts was abused, and the result was a feeling of great discontent among the aboriginal inhabitants. Rapacious underlings of Government, avaricious mahajans and oppressive landlords combined to oppress the people. The result was that, in June 1855, a body of 10,000 Sonthals assembled in the Barhait valley in the Damin-i-Koh and rose in rebellion. They declared war against all mahajans, zamindars and rich Bengalis. They defeated the Hill Rangers who marched from Bhagalpur to deal with them, and they proceeded to loot and murder. It was

not till the end of the year that 8,000 regular troops succeeded in suppressing the rebellion. As a result of the rising and of the discontent which led to it, the administration of the district was reformed. The tract which now form Sonthal Parganas were taken over from the districts of Bhagalpur and Birbhum, and formed into a separate district and removed from the jurisdiction of the ordinary law courts. The ordinary regulations and laws ceased to have effect, and a paternal system of Government was introduced, under which it was desired that the people and the *hakims* should come into personal touch, and justice should be administered in a paternal way without the intervention of legal practitioners. The system worked well for several years. In 1863, a legal ruling was obtained to the effect that the Regulation barring the operation of the ordinary law, could only have a retrospective effect. Laws passed after 1855 were therefore held to be in force, among others the Rent Law and the Code of Civil Procedure. The enforcement of the ordinary laws in regard to rent and debt led to gross evils. They were followed by discontent, and in 1871 a further rising of the Sonthals was feared. They began to assemble in numbers, and the Bengali inhabitants of the district prepared to fly. Again a reform of the administration had to take place. Regulation III of 1872 was passed. The operation of the ordinary law was again barred, and, among other things, the right of practising within the district which had begun to be exercised again was withdrawn from legal practitioners. From that time to this, with certain modifications, that system has been observed. Such is the origin of the peculiar administration of the Sonthal Parganas.

"The present position as regards the employment of pleaders in criminal cases is as follows. As we have already had explained to us, the pleader used in the ordinary sense, a pleader enrolled in one of the courts subordinate to the High Court of Calcutta and authorised to practise under the Legal Practitioners Act, has no legal existence in the Sonthal Parganas. He has as little or as much right to practise as a pleader there as a pleader enrolled in the Bombay or in the Madras High Court. There is no law in force there which gives a legal status to any similar class of legal practitioners. Whenever any one, therefore, is permitted to appear in a criminal case, he appears as a person specially authorized under the second branch of the definition contained in clause 4(*r*) of the Code of Criminal Procedure. In actual practice, in cases in which the Crown prosecutes in criminal cases, in which the Court Inspector appears on behalf of the Crown, it is obviously fair that the accused should have legal assistance, and in such cases an application on behalf of a legal practitioner to represent the accused is never refused. I say never, because that is the practice. I am not prepared to say that no individual magistrate in a moment of aberration or unwisdom has ever refused such permission. The practice of the district is that, in cases in which the Crown prosecutes, no obstacle is put in the way of the accused being represented. In complaint cases, and in criminal cases between parties of less importance, where the complainant bears the cost of the prosecution, a discretion is exercised. Very often such cases are really civil disputes. Very often they are trivial disputes between two villagers, which can best be decided by a magistrate acquainted with the people, who calls the parties before him, hears them in the presence of their fellow villagers, and generally has small difficulty in finding out exactly what has happened. It is not always to the advantage of the administration of justice that pleaders should be engaged in such cases. The question of how far it is advisable that pleaders should be engaged in all cases may be approached from two sides—from the point of view of the potential pleader and from the point of view of the potential criminal or, rather, of the potential litigant. When I was in the Sonthal Parganas, gentlemen frequently came to me and asked for permission to practise in the district as pleaders, they pointed out that they were unable to make a living in the district in which they were at the moment and that the Sonthal Parganas appeared to present a virgin field for their abilities and the prospect of a handsome income. That no doubt was perfectly justifiable from their point of view, but it does not follow that it was in the public interest that these gentlemen should earn a

livelihood at the expense of the people of the Sonthal Parganas. To rega law courts as established for the purpose of maintaining pleaders in comfort to transpose cause and effect. From my own experience, there are plentiful arg ments to be found to show that the people are not always so anxious to secure t expensive service of legal practitioners as perhaps the latter themselves wou think. In civil appeals where points of law were involved, I have frequent urged the parties to engage legal practitioners in order that I might be sav considerable trouble, and, in two cases out of three, they preferred to leave t matter to the unaided decision of the Deputy Commissioner. Any syste may be abused. The system under which the conduct of cases is left to t sole discretion of legal practitioners may also perhaps be abused, but the are many independent authorities, such as missionaries and European zaminda residing in the Sonthal Parganas, who bear testimony to the general sati factory working of the law courts in the district.

"We hear much now-a-days of a movement in favour of discouragi excessive and ruinous litigation. At every conference people are urged return to the ancient system of having their disputes settled by the old villa panchayats. The object of the Sonthal Parganas system is to attain man of the advantages of the old panchayat system. There will be no che and speedy justice at the hands of a panchayat if lawyers are paid Rs. 1 or Rs. 1,000 a day to argue the cases.

"Whatever changes may be made in the future the system cannot said to be the outcome of perversity or of prejudice against any class the popuation, but it is the result of a *bonâ fide* effort made by experience administrators to bring cheap and speedy justice to the door of the cultivati classes."

The HON'BLE MAULVI FAKHR-UD-DIN said:—

"Sir, the Resolution and the amendment which have been ably moved an elaborately discussed by the Hon'ble Movers of the original resolution and t amendment do not require any further elucidation, and are such as should accepted by Your Honour and this Council without any support.

"However, in order to keep up the formality, it is highly desirable to off my hearty support, though I am afraid I may not be able to add anything what has already been said by the Hon'ble Movers of the original motion or t amendment.

"I may, however, seek the indulgence of Your Honour's permission to submi one thing, viz., that in pleading for the extension of the application of t provisions of the Legal Practitioners' Act to the court of justice in the Sonth Parganas, I am not at all actuated by a feeling akin to a professional leanin which, at times, any member of the profession may be unconsciously or eve consciously led to entertain, but purely by a sense of humane considerati for all classes of His Imperial Majesty's subjects whether residing in the hear of the City of Palaces or in thick jungles and mountain passes within th vast Peninsula.

"Whatever may be the misconceived views and notions about the usefu ness of the existing Bar in India, *i.e.*, when you look upon it from a particul standpoint of a certain class of Indian politicians and administrators, can safely assert that with all its shortcomings, assumed or otherwise, throug the agency of our profession many an innocent life has been saved fro awful ends.

"In short, without enlarging upon the point in connection with the subject matter before the Council, it can be justifiably contended that, but for th unestimable blessings and advantages of this agency, the litigants in genera might have been led to doubt in the fair fame of the absolutely impartia justice which we are all receiving in His Majesty's Courts of Justice in thi country.

[*Maulvi Fakhr ud-din.*]

"It may well be inquired, therefore, why the poor inhabitants of the Sonthal Parganas have been virtually denied the right of availing themselves, as of right, of this agency. It is a virtual denial, for the non-application of the provisions of the Legal Practitioners' Act to the Court, or rather to the Bar there, is tantamount to that.

"The Hon'ble Mover, I think, is perfectly right in pointing out that under Regulations III of 1873 and II of 1886, and by notification contained in the Bengal Government letter No. 5581J., dated the 15th December, 1895, the entire provisions of the Code of Criminal Procedure are in force in the district of the Sonthal Parganas, and the definition of the word 'pleader', as given in the Code itself, read together with section 340 of the said Code, makes it very clear that an accused has a right to be defended by a pleader in the district of the Sonthal Parganas as well. But the Legal Practitioners Act, 1879 (XVIII of 1879), which is presumably referred to in the definition of the word 'pleader' in the Code of Criminal Procedure, has not been extended to the Sonthal Parganas, and hence a pleader has got no legal status in that district, and he, as a matter of right, cannot appear in any Criminal Court in the district.

"Sir, the services of a pleader are required to help the cause of justice, and a few instances quoted by my friend the Hon'ble Mover would tend to convince Your Honour and this Council how the rulings of the Highest Tribunal have been set at naught by the Magistrates of the district in the Sonthal Parganas, and what grave injustice has been done to the accused on account of either ignorance of law and rulings or incorrect appreciations thereof by the Magistrates concerned.

"No doubt the Magistrates have been vested with discretionary power in the matter of granting permission to the accused to engage a pleader to defend him, but Your Honour has heard in how many cases such discretions have been improperly exercised. We know that, in case of improper exercise of discretion by the Magistrate, the accused has a right to go up to the Commissioner of Bhagalpur with a view to secure the permission for the engagement of a pleader after getting the order of the Magistrate set aside. This may be easy in conception, but in practice it is very difficult.

"Sir, look to the inconvenience, trouble, expense and harassment to which an accused is likely to be subjected in securing the reversal of the order of the Magistrate refusing to grant permission to the accused to engage a pleader, and, after all, Your Honour and this Council have yet to consider as to how many of them are in the position of moving the Commissioner in such matters.

"It was no doubt in the interest of public policy that the Legal Practitioners Act was not extended to the Sonthal Parganas, but the time for such a policy has gone. Are the residents of that district still so backward or such savages or uncivilised as to receive punishment without being heard? Does it look fair and equitable that in the same district European British subjects have got the privilege of getting themselves defended by pleaders, and that even Indians if tried along with European British subjects have that privilege extended to them, but that the same privilege is refused to an Indian British subject if he happens to be the only unfortunate accused. A question legitimately arises as to how it is that, when the provisions of the Legal Practitioners Act have not been extended to the Sonthal Parganas, European British subjects have a right to engage pleaders to defend them, and why the same right is refused to an Indian British subject? It is difficult to understand this anomaly; the Government may be in a position to explain the reasons for such a distinction and how and when and under what circumstances this privilege was given to the European British subject. Would it not be an act of bare justice to endeavour to remove such invidious distinctions, which only tend to emphasize the popular impression that the scale of justice is not held even between Europeans and Indians.

[*Mr. Das.*]

"As regards the public policy, a question arises, what is the underlying principle of such a policy as to pass sentence upon an accused without giving him an opportunity of proper representation of his innocence? The accused may be a brute, may be most uncivilized, but the policy of our benign Government is to do even-handed justice to each and all. The more uncultured people they are, the greater is the need of legal assistance to such people, as without such assistance it is impossible for them either to show the falsity of the charge laid against them or to prove their innocence. Sir, if justice has to be administered according to laws of the land, it is fair that attention of the Tribunal should be drawn to such laws in the light of interpretations put by different High Courts. And who is expected to do that? Can you expect such things from the accused himself? Certainly not. This can only be done by lawyers. To refuse permission to the accused to defend himself by a pleader means to refuse justice to him. It means an arbitrary order of conviction or acquittal without any reference to law, rule or procedure.

"There is another anomaly which has yet to be explained. If the property of a certain value exceeding Rs. 1,000, belonging to a person resident of the district of the Sonthal Parganas is at stake, he has a right to engage a pleader to protect his civil rights whether he is plaintiff or defendant. But if the life and liberty of the same man, however wealthy he may be, is at stake, he has no right to engage a pleader to defend himself without the permission of the Magistrate. It appears to me that the life and liberty of a person in the Sonthal Parganas, however rich and wealthy he may be, has a value equivalent to less than rupees one thousand, for otherwise it is hard to find any explanation for such an anomalous position.

"With these few words, I strongly and whole-heartedly support the motion. To me it appears that the original motion and the amendment are one and the same; the amendment has made the motion more explicit and clear. It is all the same whether the original motion or the amendment be accepted."

The Hon'ble Mr. Das said:—

"Your Honour,—It was not at all my intention to speak on this resolution, but after having heard the Hon'ble Mr. Bompas, I feel it my duty to say a few words. He has very clearly put in a very lucid speech the history of the system which now exists in the Sonthal Parganas, and no doubt anybody who studies that system would come to the conclusion that the system is one which found justification in the past history of the tract. The Hon'ble Mr. Bompas has also put before the Council two sides of the question—one is the Pleader's point of view of the question, and the other is the Administration point of view. Certainly no person—not I, at any rate—should advocate any proposal under which a number of pleaders or lawyers should be let loose on the illiterate and ignorant people of the Sonthal Parganas to fleece them. But at the same time, the resolution does not aim at letting loose the pleaders on the ignorant people, but the resolution is worded so as to leave us in no doubt as to the intention of the hon'ble mover. The resolution proposes that when an accused person *wishes* to be defended, he should be given an opportunity to secure the services of lawyers. The last two years' Budgets in this Council have shown that the services of lawyers are very valuable even in the Metropolis of the British Empire. I have read of a case where the Magistrate trying a case in the Sonthal Parganas came to a very curious legal conclusion. A person against whom a case was proceeding died, and his son was arraigned for his father's offences. The Magistrate held that if the son inherited his father's property, why should he not also be punished for an offence committed by the father? That was probably a very sensible view to the trying Magistrate. It is not difficult for us to conceive that some Deputy Magistrate would adopt such an interpretation of the law. I submit that the greatest benefit we enjoy under British rule is Justice, and the foundation of the British Empire rests on our appreciation of British Courts of Justice. In certain cases

where justice is miscarried owing to the ignorance of the persons entrusted with the administration of justice, it is a discredit to the Administration. The question before the Council is that accused persons in the Sonthal Parganas should be given an opportunity of defending themselves by pleaders if they so wish, not to allow pleaders to fleece the ignorant people. Having that in view, I submit that the resolution ought to be accepted by the Council."

The Hon'ble MR. DUKE said :—

"Sir, I have observed that the Hon'ble mover and supporters of the resolution, although they have given a very lucid and detailed explanation of the judicial system which prevails in the Sonthal Parganas, and of the regulations which are in force, have, in fact, avoided any reference to the circumstances which have occasioned that district to be administered under a different system to the rest of the province, or any explanation of the reasons why the inhabitants labour under what they consider to be disabilities as compared with those of other districts. The reasons have been very sufficiently explained in the history of the district by the Hon'ble Mr. Bompas, who has relieved me from going particularly into the matter. Briefly, the state of the case may be summarised by saying that it was found impossible for the Sonthal aboriginal population to live under the same polity and judicial system as their more advanced neighbours, since they had neither the intelligence, education, nor any of the mental qualities necessary to defend their interests when they were called in question, and, therefore, they were being gradually expropriated from their ancestral lands and reduced to a condition of serfdom. This once produced a bloody rebellion accompanied by serious massacres and horrible atrocities which it required much display of military force to put down. Even then the lesson was only partially learnt. The nature and *personnel* of the administration was changed, but the legal system was not effectively changed. The Hon'ble Mr. Bompas has explained how, by degrees, the old Bengal system began to creep back, and how again after 16 years another rebellion was very narrowly averted. Gentlemen, this matter may seem to be ancient history, which has little application to the present day, since for the last 40 years the Sonthal Parganas have enjoyed peace and prosperity and have made great progress. Of course it is open to argument that in such circumstances the administration may be altered, made more progressive, and brought more into line with the rest of the province, but lessons such as we have in the history of the district are not to be lightly put aside, and it is clearly also open to us to argue that the peace and contentment of the district are very greatly due to the simple patriarchal system under which it has been administered. It perhaps would be hopeless to try to convince lawyers that there can be too much law or too many legal practitioners, but still it is a curious circumstance that in the present day, in parts of the country very different to the Sonthal Parganas, the increase of litigation and the ruin which it works are being constantly referred to. It is one of the favourite subjects of the public press, and various systems and schemes for reducing the amount of litigation, by a wider resort to private arbitration, are constantly being discussed and advocated. When that seems to be the tendency of the day, we should naturally hesitate before we take steps to promote the increase of litigation in the Sonthal Parganas. Now it may be said that the limited scope of the resolution can hardly have much effect in increasing litigation. It would, however, have some effect, and from one point of view, I may say at once, from my own point of view, the amendment of the Hon'ble Rai Shiba Shankar Sahay Bahadur is more objectionable than the original resolution, for what it really amounts to is this;—it proposes the introduction of the Legal Practitioners Act which has hitherto been excluded from the Sonthal Parganas, and even something more than that, for according to it, so far as regards criminal cases, every sort of practitioner who is authorized under the Legal Practitioners Act or enrolled in a High Court, would be able to practise in this particular district. Act 1879 Act 1879

"The liberty of practice would be greater than even in the courts of the ordinary districts, for there the pleader has not only to have the

authority of the High Court to practise, but has also to enroll himself in the courts of the district. The amending resolution would, in fact, open the way to the unrestricted practice of every kind of legal practitioners in the Sonthal Parganas. Now, it is of importance that the number of authorised legal practitioners there should not be increased to such an extent that they must, in order to procure a living, themselves foment litigation and stimulate its increase. At present there is a fair number of persons authorised to practise as pleaders in the Sonthal Parganas, but the numbers are watched, and they have never been allowed to reach the point where any excessive degree of competition is likely to prevail. The principal objection which I have to the resolution is that it would be difficult to admit it and at the same time to exercise any control over the number of persons practising in the courts. What actually happens in the Sonthal Parganas is, as you have been told by the Hon'ble Mr. Bompas, that in all cases conducted by the police, no obstacle is put in the way of the accused being represented, and in a great majority of complaint cases, the same is the case. An examination of the figures shows that in upwards of three-fourths of the cases in which the accused desired to be represented by pleaders, permission was granted, and generally, where it has been refused by the lower courts, the superior courts have shown extreme consideration in granting permission. To go beyond that point and insist that in all cases pleaders should be permitted, is another matter. As long as pleaders are limited, it may not be always possible for both parties to be represented, and the general principle has been that, when the parties are persons of the same class and both desire it, the privilege should be granted, but that it should not be allowed when it is to result in a man of superior position making it impossible for an aborigine to obtain justice and that is what practically must be the case if the party who is already the wealthier and the more intelligent is defended by a pleader and the opposite party is not. It would be impossible, therefore, for Government to concede that pleaders or legal practitioners of all classes should be freely admitted without check to practise in the Sonthal Parganas.

"So long as that is impossible, it is impossible to lay down that the discretion which is now vested by law in the officers of the Sonthal Parganas should be entirely done away with and that pleaders should appear without reference to them.

"Government, however, recognise that the Sonthal Parganas system is not necessarily unalterable. With the advance of civilisation and education, it may have to be modified. The conditions are not the same in all parts of the district; they are not the same in parts of Rajmahal and Deoghur as in the wilder subdivisions, but in the Dawin-i-koh and in a very great part of the district they are still exceedingly primitive and the same watchfulness is as necessary now as it was 40 years ago. The length to which the Government are willing to go in the present case,—and I trust it will be recognised that it is a considerable concession,—is that what we have been told is the practice will now be made a rule or instruction binding upon the officers, namely, in all cases in which the Government are the prosecuting party the accused shall have a right to be represented by an approved pleader if he so desires; while in complaint cases, that is to say, in all cases where the task of prosecuting falls on the complainant, the accused may be defended by an approved pleader, that is by a pleader who has been approved for practice in the Sonthal Parganas, unless the Subdivisional Officer considers, for special reasons to be recorded in writing, that he should not be so allowed. It will be observed that this is a very substantial reduction of the unfettered discretion which has hitherto been allowed to the officers. If the presiding officer of the court considers that the accused should not have the advantage of appearing by pleader, the onus will now be put on him to record his reasons, instead of its being put on the party to show cause by way of appeal why the concession should be permitted. Thus far Government are prepared to go by means of executive instructions, and I think it ought to be recognised that this is as far as it is possible to go in meeting the views which have been put forward by the supporters of the resolution."

[*The President; Mr. Saiyid Wasi Ahmad; Babu Bhupendra Nath Basu.*]

The PRESIDENT said:—

"Will the Hon'ble Mr. Wasi Ahmad and the Hon'ble Rai Shiba Shank Sahay Bahadur, after hearing from the Hon'ble Mr. Duke the extent to whi Government are prepared to meet the object of the resolutions which have be moved, be prepared to accept that and to regard their resolutions withdrawn?"

The Hon'ble Mr. Saiyid Wasi Ahmad then withdrew his resolution favour of the amendment moved by the Hon'ble Rai Shiba Shankar Sah Bahadur.

He said:—

"Sir, I accept the Hon'ble Rai Shiba Shankar Sahay's amendment, but t improvement proposed by the Government does not exactly meet the case th we have put before the Council. It seems to me, Sir, that there is a notion th we want to make the Sonthal Parganas a happy hunting ground for hung lawyers It is unfortunate that none but lawyers in this Council have tried move or support this resolution. It would have been better if some of t zamindars had come forward to our rescue. But, as we are always deali with such cases, we thought that justice demanded that this resolution should brought before Your Honour, and I think that it would be making again invidious distinction if the proposal as stated by the Hon'ble Mr. Duke given effect to. I am glad that the Hon'ble Mr. Bompas had something say in connection with this resolution, but it seems to me that an accus ought to be allowed, on principle, to defend himself, if he so desires, and th no other suggestion, of any sort whatever, can be accepted by any one amon us I find that a distinction has been made between Crown cases and cases complaints, on the suggestion of the Hon'ble Mr. Duke. In the former ca the accused would be allowed to defend himself by a pleader, but I am afr i Sir, that when a private person who happens to be a rich man, chooses prosecute or persecute another person, it would be unjust and unfair not allow that person to be defended by pleaders.

The Hon'ble Babu Bhupendra Nath Basu said:—

"Your Honour,

I beg to ask whether the Hon'ble Mover is replying to the Hon' Mr. Duke, or is he speaking further on his motion, as there are some oth Hon'ble Members who also wish to speak."

The President said:—I regret to say that the time limit for the discussi of the resolution has expired. I am afraid there is no probability of any oth Hon'ble Members being able to speak. It is only as a matter of concessi that I have allowed the Hon'ble Member to go on.

The Hon'ble Mr. SAIYID WASI AHMAD said:—

"I am very anxious about the time-limit. I was very anxiously looki at the clock—and although the Hon'ble Members who replied occupied half t allotted time-limit—I must express myself with a very few words more, then we are a quarter of an hour more than the expected time. I fully appreci the amendment of my hon'ble friend that an accused person should be d fended by any class of lawyers if he so desires. I am afraid, Sir, that cannot accept the suggestion of the Hon'ble Mr. Duke, and I would certain in the circumstances, ask for a division on my resolution, accepting t amendment of my hon'ble friend, Rai Shiba Shankar Sahay Bahadur."

The amendment being put to the vote, a division was taken, with the following result :—

Ayes 19.	*Noes 27.*
Babu Bhupendra Nath Basu.	Mr. F. A. Slacke, C.S.I., *Vice-President.*
Rai Sita Nath Ray Bahadur.	
Maharaja Manindra Chandra Nandi.	Mr. F. W. Duke, C.S.I.
Maharaj-Kumar Gopal Saran Narayan Singh.	Rai Kisori Lal Goswami Bahadur.
Babu Kirtanand Sinha.	Mr. R. T. Greer, C.S.I.
Raja Rajendra Narayan Bhanja Deo.	„ E. W. Collin.
Babu Deba Prasad Sarbadhikari.	„ J. H. E. Garrett.
Mr. J. G. Apcar.	„ C. J. Stevenson-Moore.
Mr. Golam Hossein Cassim Ariff.	„ T. Butler.
Mr. Saiyid Wasi Ahmad.	„ E. P. Chapman.
Maulvi Saiyid Muhammad Fakhr-ud-din.	„ J. G. Cumming.
Rai Shiba Shankar Sahay Bahadur.	„ H. Wheeler, C.I.E.
Mr. Madhu Sudan Das, C.I.E.	„ B. K. Finnimore.
Rai Baikuntha Nath Sen Bahadur.	„ S. L. Maddox.
Babu Mahendra Nath Ray.	„ G. W. Küchler.
Khan Bahadur Maulvi Sarfaraz Husain Khan.	„ L. F. Morshead.
Babu Braja Kishor Prasad.	„ C. H. Bompas.
Mr. Dip Narayan Singh.	„ C. E. A. W. Oldham.
Babu Bal Krishna Sahay.	Nawab Saiyid Muhammad, Khan Bahadur.
	Mr. W. R. Gourlay.
	„ C. F. Payne.
	Maharaja Sir Prodyot Kumar Tagore, Kt.
	Sir Frederick George Dumayne, Kt.
	Mr. Norman McLeod.
	„ F. H. Stewart.
	„ W. J. Bradshaw.
	Babu Hrishikesh Laha.
	Maulvi Saiyid Zahir-ud-din.

The following Members did not vote :—

The Hon'ble Mr. B. C. Mitra.
„ „ Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.
„ „ Mr. T. R. Filgate.

The amendment was therefore lost.

The Council was then adjourned to Wednesday, the 5th April, at 10-30 A.M., when the discussion of the budget will take place.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

CALCUTTA,
The 5th April 1911.

B. S. Press—10-4-1911—4893J 340 - W. M. D'C.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Wednesday, the 5th April, 1911, at 10-30 A.M.

Present:

The Hon'ble SIR EDWARD NORMAN BAKER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President.*

The Hon'ble MR. F. W. DUKE, C.S.I.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. W. R. GOURLAY.

The Hon'ble MR. C. F. PAYNE,

The Hon'ble MAHARAJA SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, KT.

The Hon'ble BABU BHUPENDRA NATH BASU.

[*Mr. Saiyid Wasi Ahmad.*]

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadu of Burdwan.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH.

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW

The Hon'ble MR. GOLAM HOSSEIN QASIM ARIFF.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN, BAHADUR.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

QUESTIONS AND ANSWERS.

PRIMARY AND *MAKTAB* EDUCATION.

The Hon'ble MR. SAIYID WASI AHMAD asked:—

1.—Will the Government be pleased to state the amount spent by each of the District Boards and Municipalities in the Patna, Bhagalpur, Tirhut and Chota Nagpur Divisions on Primary education during the last three years, and what percentage of the whole was spent on *Maktab* education?

[*Mr. Cumming; Mr. Saiyid Wasi Ahmad.*]

The Hon'ble MR. CUMMING replied:—

I.—"Government are not in a position to supply the comparative statistics of expenditure on *maktab* and other primary education asked for by the Hon'ble Member. It may be pointed out, however, that until the recent revision of the Local Self-Government Act, District Boards, although they were entitled to aid Muhammadan schools following the ordinary courses of vernacular instruction, were not entitled to aid *maktabs*, *i.e.*, *Koran* schools."

The Hon'ble MR. SAIYID WASI AHMAD asked:—

II.—Will the Government be pleased to state—

(*a*) what was the *maktab* grant from the Provincial revenues to each of the districts of the Patna, Tirhut and Bhagalpur and Chota Nagpur Divisions during the years 1908-09, 1909-10, 1910-11 and 1911-12, and

(*b*) whether such grants were sufficient to meet the requirements of the *maktabs* following the Departmental Syllabus?

The Hon'ble MR. CUMMING replied:—

II. (*a*) "The particulars desired with regard to the aid granted from Provincial revenues to *maktabs* in each of the districts of the Patna, Tirhut, Bhagalpur and Chota Nagpur Divisions during the years 1908-09 to 1910-11 are set forth in [illegible] as they are at present available in the statement which is laid on the table. The distribution of the *maktab* grant for the years 1911-12 has not yet been determined.

(*b*) Government have no definite information as to whether the grants are insufficient."

Statement referred to by the Hon'ble Mr. Cumming in the answer to Question No. II.

NAME OF DISTRICT AND DIVISION.	Grant made in 1908-1909.	Grant made in 1909-1910.	Grant made in 1910-1911.
Patna Division.	Rs.	Rs.	Rs.
Patna district	1,000	1,734	1,734
Gaya "	1,000	1,708	2,318
Shahabad "	1,000	1,314	2,105
Tirhut Division			
Saran district	500	855	1,181
Champaran " ...	500	949	949
Muzaffarpur "	1,000	1,665	3,093
Darbhanga "	1,000	2,213	2,218
Bhagalpur Division			
Monghyr district ..	1,000	1,500	[illegible]
Bhagalpur " ...	1,000	[illegible]	[illegible]
Purnea "	1,000	1,100	[illegible]
Sonthal Parganas district ..	[illegible]	[illegible]	[illegible]
Darjeeling "	[illegible]	150	[illegible]
Chota Nagpur Division			
Hazaribagh district	250	310	[illegible]
Ranchi "	100	195	381
Palamau "	100	145	358
Manbhum "	100	200	200
Singhbhum "	50	168	108
Total ..	10,150	16,746	21,198

[*Mr. Saiyid Wasi Ahmad; Mr. Cumming.*]

The Hon'ble MR. SAIYID WASI AHMAD asked :—

III.—(*a*) Do all *maktabs* in the Bhagalpur and Tirhut Divisions follow the Departmental Syllabus?

(*b*) What grants-in-aid are they allowed by Government?

The Hon'ble MR. CUMMING replied :—

III.—(*a*) "The answer is in the negative.

(*b*) The rates for grants-in-aid to *maktabs*, following the departmental syllabus, are as laid down in Mr Earle's letter of the 10th June, 1908, to which the Hon'ble Member has referred in his questions. The actual amount of the total grant-in-aid is given in the statement laid on the table."

The Hon'ble MR. SAIYID WASI AHMAD asked :—

IV.—Will the Government be pleased to call for a statement from each of the Educational Divisions of Bengal, showing the number of *maktabs* in each of them and the amount required for aiding them on the scale laid down in paragraph 52 of the Hon'ble Mr Earle's letter No. 246—T., of the 10th June, 1908, to the address of the Government?

The Hon'ble MR. CUMMING replied :—

IV.—"Government have already in the last financial year called for statements from each of the educational divisions of Bengal showing the number of *maktabs* in each of them, and the amount required for aiding them on the scale to which the Hon'ble Member refers. The amount, as elicited from these reports, is Rs 51,908. Provision has been made to the extent of Rs 45,000, and endeavour will be made to bring the provision up to the required total, if possible."

The Hon'ble MR SAIYID WASI AHMAD asked :—

V.—Will the Government be pleased to refer to paragraph 44 of the Hon'ble Mr. Earle's letter mentioned above, and state—

(*a*) how far the recommendations made therein, respecting the appointment of Inspecting Maulvies, have been given effect to, and

(*b*) whether it is intended to give one such officer during the next financial year to each of the districts of Monghyr and Purnea?

The Hon'ble MR. CUMMING replied :—

V.—(*a*) & (*b*) "Owing to the financial situation it has not been found practicable to give effect to the recommendations made on the subject of the appointment of additional Inspecting Maulvies. It is not intended to appoint an Inspecting Maulvi to each of the districts of Monghyr and Purnea during 1911-12."

The Hon'ble MR SAIYID WASI AHMAD asked :—

VI.—Will the Government be pleased to refer to paragraphs 37, 38 and 39 of the Hon'ble Mr. Earle's letter mentioned above, and state—

(*a*) how many applications for Government grant were received from Madrassas in the Bhagalpur Division during the year 1911-12, and

(*b*) how they have been disposed of?

The Hon'ble MR. CUMMING replied :—

VI.—(*a*) & (*b*) "Two Madrassas in the Bhagalpur Division, viz., the Madrassa Anjuman Hemayet Islam, Monghyr, and the Madrassa Anjuman Islamia at Kissenganj, applied for Government assistance in 1910-11. In the case of the former correspondence is still proceeding. It is proposed to aid the latter with effect from the 1st April, 1911."

[*Babu Deba Prasad Sarbadhikari; Mr. Chapman.*]

THE COURT OF SMALL CAUSES, CALCUTTA.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

VII.—(*a*) Has the attention of the Government been called to complaint in the Press and outside the Press about the congested state of business in the Calcutta Court of Small Causes?

(*b*) Would it please the Government to state whether and how far such complaints are well founded?

(*c*) Is it a fact that such congestion affects work both in the Courts and in the offices, and that the congestion exists mostly in the 5th Court, and that there is considerable congestion in the 3rd and 4th Courts?

(*d*) Would the Government be pleased to state the reasons of such congestion?

The Hon'ble MR. CHAPMAN replied:—

VII.—(*a*), (*b*) & (*c*) "The Government are aware that complaints are being made about the congested state of business in the Calcutta Court of Small Causes and that there is in fact some congestion in the 3rd, 4th and 5th Courts.

(*d*) The congestion does not appear to be due to any actual increase in the volume of business for disposal. The Government are not prepared at present to state any opinion as to the reasons for the congestion, but it is believed that the pending file will shortly be reduced to normal proportions."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

VIII.—(*a*) Has the Government received any representation or suggestion for strengthening the Ministerial Department of the Court, by the appointment of a Deputy Registrar or otherwise?

(*b*) If so, when and by whom was such representation or suggestion made and what steps have been taken for giving effect to the same?

(*c*) If no steps have been taken, would the Government be pleased to state the reason of such omission, and whether it proposes to take any step for strengthening the Ministerial Department of the Court, and, if so, when?

The HON'BLE MR. CHAPMAN replied:—

VIII.—(*a*) & (*b*) "An application for the appointment of a Deputy Registrar was made in 1908 by the Chief Judge; the Government did not accede to the application, mainly upon financial grounds. No other representation or suggestion for strengthening the Ministerial Department of the Court has been received.

(*c*) Should the Judge move again for the appointment of a Deputy Registrar, the proposal will be carefully reconsidered."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

IX.—Would the Government be pleased to consider the necessity of appointing an additional Judge for relieving the congestion in the Court?

The Hon'ble MR. CHAPMAN replied:—

IX.—"No application has been made for the appointment of an Additional Judge, and there does not appear to have been any increase in the volume of business for disposal to justify such an appointment."

[*Babu Deba Prasad Sarbadhikari; Mr. Chapman; Mr. Stevenson-Moore.*]

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked :—

X.—Would the Government be pleased to furnish a statement showing—

(*a*) the income derived from the Calcutta Court of Small Causes during the last five years,

(*b*) the expenditure on account of the said Court during the same period, and

(*c*) the number of cases instituted and disposed of during the same period, and the number of cases now pending?

The Hon'ble MR. CHAPMAN replied :—

X.—"The statement asked for is placed upon the table."

Statement referred to by the Hon'ble Mr. Chapman in the answer to Question No. X.

Year.	Gross income.	Total expenditure.	Net income.
	Rs.	Rs.	Rs.
1906	... 4,65,579	2,23,844	2,41,735
1907	... 4,55,449	2,17,273	2,38,176
1908	... 5,51,081	2,28,960	3,22,121
1909	... 5,14,344	2,34,417	2,79,879
1910	... 4,86,145	2,22,050	2,64,095

Year.	Pending from previous year.	No. of cases instituted.	Revived cases	No. of cases disposed of	Transferred to High Court.
1906	... 2,505	21,578	835	22,451	13
1907	... 2,454	21,158	1,096	23,015	14
1908	... 1,679	23,811	1,399	24,452	13
1909	... 2,124	23,821	1,659	25,253	11
1910	... 2,640	22,947	1,639	24,228	10

Pending at the close of the year 1910—2,988.

PROMOTIONS OF INDIAN ASSISTANT SUPERINTENDENTS OF POLICE.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked :—

XI.—(*a*) Would the Government be pleased to state how many Indian Assistant Superintendents of Police who were promoted from the lower ranks, superseded European Assistant Superintendents who were appointed direct?

(*b*) Was any Indian Assistant Superintendent, from the date of his promotion to that rank, given four or even three grade promotions in four years?

(*c*) If so, how many?

The Hon'ble MR. STEVENSON-MOORE replied :—

XI.—(*a*) "Two.

(*b*) & (*c*) The answer is in the negative."

PROMOTIONS OF DEPUTY SUPERINTENDENTS OF POLICE.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked :—

XII.—(*a*) Will the Government be pleased to state the periods during which the six Deputy Superintendents who received direct appointments officiated as Superintendents?

(*b*) Did they act in their own districts, or did they go to some other district during the period of such acting appointments?

(*c*) Will the Government be pleased to state the periods during which the Deputy Superintendents promoted from the rank of Inspector officiated as Superintendents?

(*d*) Did they act in their own districts, or did they go to some other district during the period of such acting appointments?

[*Mr Stevenson-Moore.*]

(*e*) Will the Government be pleased to lay on the table a statement showing, as regards Deputy Superintendents promoted from the rank of Inspector, their University qualifications and their rank and pay when they first joined the Police service?

(*f*) Will the Government be pleased to mention the occasions on which these officers were promoted in supersession of their colleagues while in the subordinate service?

The Hon'ble Mr. Stevenson-Moore replied :—

XII.—(*a*) & (*b*) "A statement is laid on the table:—

(*c*) & (*d*) A statement is laid on the table :—

(*e*) A statement is laid on the table :—

(*f*) This information is not readily available and Government is not prepared to call for it, since its collection would involve an amount of labour quite incommensurate with the value of the results."

Statement referred to by the Hon'ble Mr. Stevenson-Moore in the answer to Question No. XII (a) and (b).

	Period of acting.	Whether acted locally or elsewhere.
1.	14 days	Locally
2.	(*a*) 6 months and 6 days	Elsewhere.
	(*b*) from 20th February, 1911, to date	
3.	5 days	Locally.
4	(*a*) 22 days	Do.
	(*b*) 6 days	
	(*c*) 9 days	
5.	6 days	Do.
6.	1 month and 4 days	Do.

Statement referred to by the Hon'ble Mr. Stevenson-Moore in the answer to Question No. XII (c) and (d).

	Period of acting.	Whether acted locally or elsewhere.
1.	(*a*) 5 months and 22 days	Elsewhere.
	(*b*) 26 days	Locally.
2.	(*a*) 1 month and 1 day	Elsewhere.
	(*b*) 2 months and 1 day	
	(*c*) 2 months and 21 days	
	(*d*) from 16th April, 1910, to date	
3.	(*a*) 1 month and 18 days	Do.
	(*b*) 5 months and 5 days	Locally.
	(*c*) 1 month	
4.	6 months and 18 days	Do.
5.	(*a*) 5 months and 19 days	Elsewhere.
	(*b*) 25 days	Locally.
	(*c*) 2 months and 29 days	
6.	(*a*) 7 months and 6 days	Do.
	(*b*) 7 months and 14 days	
	(*c*) 18 days	
	(*d*) 18 days	
	(*e*) 17 days	Elsewhere.
	(*f*) 4 months and 8 days	
7.	3 years, 1 month and 20 days	Do.
8.	5 months and 7 days	Do.
9.	13 days	Locally.
10.	(*a*) 8 months and 5 days	Elsewhere.
	(*b*) 3 months and 19 days	

[*The President; Babu Braja Kishor Prasad.*]

Statement referred to by the Hon'ble Mr. Stevenson-Moore in the answer to Question No. XII (e).

Serial No.	University qualification.	Enlistment.			
		Date.	Rank.	Grade.	Pay.
					Rs.
1	Passed Entrance Examination.	21st February, 1879.	Head Constable	2nd grade ...	20
2	B A.	30th May, 1886	Inspector ...	4th „ ...	100
3	Nil	1st April, 1880	Sub-Inspector ...	4th „ ...	50
4	Nil	20th February, 1899.	Ditto ...	5th „ ...	30
5	Passed Entrance Examination.	13th September, 1875.	Ditto .	4th „ ..	50
6	Nil	27th March, 1879	Head Constable	4th „ ...	12
7	Nil	25th May, 1885	Ditto ...	1st „ ...	25
8	Nil	14th March, 1879	Ditto ...	4th „ ...	12
9	Passed Entrance Examination.	16th April, 1893	Sub-Inspector, Probationary.	5th „ ...	20
10	Nil	1st May, 1884	Writer Constable.	1th „ ...	7
11	Not known ...	22nd May, 1880	Constable ...	1st „ .	9
12	Nil	1st January, 1886.	Do ...	2nd „ ...	8
13	Passed Entrance Examination.	10th February, 188	Sub-Inspector ..	5th „ ..	30

THE BENGAL BUDGET FOR 1911-12.

The PRESIDENT said:—

"The next business, gentlemen, is the discussion of the Budget, and, I think, it will be convenient if the non-official Hon'ble Members will speak first and then the Members on behalf of Government will make their replies. The time-limit has been fixed at 15 minutes except in the case of the Finance Member."

The Hon'ble BABU BRAJA KISHOR PRASAD said:—

"Your Honour,—I wish to make only a few observations on the Budget and those in connection with the policy of the Government with respect to the educational needs of Bihar. When, at the final discussion of the Budget last year, most of us from Bihar pointed out the step-motherly treatment meted out to our Province in the matter of the Government grants-in-aid to our colleges and that in spite of the fact that more than one-half of the total revenues raised in the

[*Babu Braja Kishor Prasad.*]

Lower Provinces is contributed by Bihar, the Hon'ble Mr Kuehler, in defending the action and attitude of the Government, took up the position that the standard of comparison between Bihar and Bengal proper should not be the areas or the populations of, or the amount of revenues raised in, the two tracts of the country, but the number of University students in the two parts of the Province. In other words, the true test of comparison, according to him, should be the demand for University education in the two parts of the Province. And, I believe, I succeeded in showing the other day how the help of this standard is invoked only when Bihar Colleges are concerned; for we find that though in Chota Nagpur the demand for University education is not even half of that in Bihar, yet, while all the private colleges in Bihar taken together get little or nothing, the Hazaribagh College gets Rs. 12,000 a year as Government grant-in-aid, even from the very year in which it was affiliated as a first-grade college. This year, when, at the preliminary discussion of the Budget, I moved a resolution requesting the Government to allot Rs. 14,000 for strengthening the tutorial staff of the Government and zilla high English schools in Bihar, and Rs. 24,000 for assisting the public high English schools at the head-quarters of the subdivisions in the districts of Bihar, the Hon'ble Director of Public Instruction met me with the reply that it would be obviously unfair to apply to the improvement of Bihar schools money which was not at the same time forthcoming to effect a general improvement in the standard of secondary education throughout the Province. We fail to understand the logic of the Director of Public Instruction. The matter is simple enough. The people of Bihar do stand in urgent need of help to their schools, while circumstances in Bengal proper do not make any such necessity for improvement in Bengal schools felt by the people. On account of the paucity of high English schools in a Bihar district, the University regulations fixing the number of students for each class operate with great hardship on the Biharis. The resources of the existing schools do not permit the opening of the required number of sections in each class, and boys are refused admission. I believe nothing of this sort is felt in Bengal proper, where a sufficient number of well-equipped high English schools meet the necessities of the situation. Under such circumstances, is it fair for the Government to refuse our request to increase the number of teachers in the zilla schools of Bihar? The Hon'ble Mr Kuehler says it would be unfair to take any steps to improve the Bihar schools without at the same time taking some measures with regard to the other schools in the Province. But is it fair, Sir, to raise lots of revenues from a people and not to attend properly to their educational needs and requirements? And is it fair, Sir, to spend the revenues raised in one part of the Province, with existing crying educational needs, to the purposes of another part, whose necessities are not so great. Strange seems to us to be the idea of fairness set up by the Director of Public Instruction. And I am sure the Government does not endorse any such idea. The relation of a Government to its subject is parental, and, like good parents, it is the duty of good Governments to pay more attention to the needs and necessities of a younger and weaker community of people than to that of a stronger one which may be strong enough to stand unaided. The special facilities afforded in everything, including educational matters, to our Muhammadan brethren, clearly prove the solicitude of the Government for the improvement of backward communities. Bihar, in comparison with Bengal, seems to be similarly circumstanced, and, therefore, needs special treatment in matters of educational grants. Mr Pope, a great educationist, who was for a considerable time Inspector of Schools, Bihar Circle, and was well acquainted with its needs, strongly advocated the adoption of a separate policy for the educational affairs of Bihar. In his annual report of 1885-86 he said: 'I would specially and strongly call attention to the necessity of not including Bihar with Bengal in matters of educational policy. They need separate treatment; what suits the one will not suit the other. I ask in the interest of education in Bihar that in all conferences and committees that may sit to deal with education, education in Bihar may be duly and specially represented; also that the grant-in-aid allotment be considerably increased, in order that the Biharis may have

the same advantages with their Bengalee brethren'. Another authority on Bihar educational affairs, viz., the late Dr. C. R. Wilson, Principal of the Patna College, advocated a similar policy for Bihar in 1899-1900. And we have the living authority in our hon'ble colleague, the Member for the University, who very properly said the other day: 'Bihar has a special feature as regards school education; there is not a sufficient number of private schools such as one meets with in Bengal, and, therefore, some preferential treatment is necessary with regard to the schools there.'

"I, therefore, earnestly hope that the Government will be able to give this subject its serious consideration, and do the needful in the matter.

"The other point, which I had a mind to touch, is the Government grants-in-aid to our colleges. But, as on this matter, we have, at least as far as the Tirhut College is concerned, the pledge and the assurance given by the Director of Public Instruction that the matter is engaging the attention of the Government, I need not say anything about it."

"The last matter to which I want to refer is the need of a Professor of Philosophy for our Patna College. When this matter was brought up before the Council the other day by the Hon'ble Babu Bal Krishna Sahay, the Director of Public Instruction was pleased to observe that though, under the scheme initiated by Mr. Earle for strengthening the staff of the various colleges, a Professorship of Philosophy was sanctioned for the Patna College, yet on a subsequent representation made to him that Philosophy was an extremely unpopular subject, it was decided to appoint a Professor of Political Economy and Political Philosophy, and that in a matter of that kind he had to be guided by the people on the spot. Since this pronouncement of the Director of Public Instruction, a very able article on the subject containing facts and figures has appeared in the *Bihari* of the 31st March, 1911, under the heading 'Philosophy and Patna College'. I invite the attention of the Hon'ble Mr. Kiichler to it. It appears in the light of the figures quoted therein that the theory of the people on the spot propounded by the Director of Public Instruction is altogether baseless. I cannot do better, Sir, than to quote a small paragraph from the said article, which runs thus:—

'Let us see whether there is any truth in the report so solemnly submitted by the "man on the spot" to Mr. Kuehler about the unpopularity of Philosophy with the students. At the outset, we confess we are not endowed with the power of reading the hearts of the students, the ex-students, and the would-be students, as the "man on the spot" appears to be, but we shall base our conclusions on figures kindly supplied, at our special request, by the Principal of the Patna College. Taking the average of the four years from 1903-04 to 1906-07, we find that there were 59 students reading Philosophy in the B. A. classes (in each year). Even in the year 1907-08, the year preceding the disaffiliation of the Patna College in Philosophy, we find there were some 31 students of Philosophy in the 4th year class alone, and yet we are told on the authority of the "man on the spot" that Philosophy was an extremely unpopular subject.'

"Sir, we, therefore, hope that the Government will take some steps to give us a Professor of Philosophy for our Patna College."

The PRESIDENT said:—

"The Hon'ble Babu Kirtanand Sinha's speech has been circulated to all Members of Council, it may therefore be taken as read if the Hon'ble Member agrees.

The following speech was accordingly taken as read:—

"YOUR HONOUR,—The Draft Financial Statement has been supplied to the Hon'ble Members three days earlier than was done on previous years, and it cannot be said that the non-official Members did not take full advantage of the opportunity thus afforded to them. I think much good has come out of those discussions which followed the introduction of the Financial Statement, and which the moving, seconding, supporting and opposing involved. Some

[*Babu Kirtanand Sinha.*]

of my colleagues have also secured promises for their favourite projects. I think they have to rest content with that for the present, and to-day we have only to contemplate the budget as a whole and pass benedictions on the various items without in any way changing their character or strength. I hope and trust that greater weight will hereafter be attached to the discussions on the Financial Statement, and that the draft will be circulated earlier, to give greater opportunity to the Members to digest all the facts and figures and make suggestions and alterations by moving resolutions on different items. It is quite clear from the discussions of the 13th March last that, while many Members were able to secure the support of the Government on the main points of their motion, they tumbled on the question of ways and means, and the position was fully appreciated by His Honour the President, who has promised to consider in the course of the year whether it is not possible to devise some means to give greater facility to the Members for the purpose of picking out items in which reduction can possibly be made. The question is full of difficulties, yet of very great importance to the non-official Members who, after laboring hard on a subject, have to give it up because they cannot indicate the item in which the reduction can be made. I think if fuller details are given beforehand and if fuller information is made available, the Members may be able to find out means to provide for their projects. But such as it is, the privilege of moving resolutions with a view to modify the different items of expenses in the budget is of little practical value.

"Turning now to the budget which, as I have already remarked, has come out of the ordeal in its original purity, one is surprised to find the enhanced expenditure under the head "Courts of Law", and I regret very much the circumstances which have forced Government to apply such a large amount of the public money to such a class of expenditure. But I fully recognise the necessity for this item of expenditure, and I sincerely hope that this state of things will have a speedy ending.

"I do not grudge the provision of Rs. 50,000 for raising the scale of Government Pleader's retaining fees. On the contrary, I quite doubt whether the provision is quite adequate. If the Government Pleaders were paid for each opinion or each item of work that they do for the Government in cases in the same manner as we, private individuals, have to pay to them, then I believe a much larger provision would be necessary. A distinguished Government Pleader was once heard remarking that if he was to calculate the approximate value of the opinions that he had to give in Government cases with the monthly retainer he got, it would come up to nearly one piece an opinion! And on principle I would like to suggest that their relations with the Government should in no way differ from their relations with their private clients.

"The most pleasing item in the budget is the munificent grant that we have got from the Imperial Government towards Education, though the value of the gift is a little lessened by the fact that it is hedged in by some conditions and limitations, and it will, as was remarked by Mr. Küchler, find immediate expression mainly in bricks and mortar.

"In this connection, I beg to express my satisfaction on the acceptance of the resolution of my friend, Mr. Dip Narayan Singh, for the appointment of a committee to frame definite proposals for the disposal of the special grant. Though the *personnel* of the committee has been left entirely in the hands of the Government, we have the assurance of His Honour that the public will be allowed a fairly large voice in the committee. I hope Bihar will be adequately represented on the committee, and her claims to a fair share will be carefully considered and given effect to.

"I regret that the distribution under the Technical and Industrial head should be confined to Sibpur College equipment alone. Last year I had taken your Honour's permission to point out the necessity of multiplying the number of technical and industrial schools in Bihar, and I beg to repeat the same, and to observe further therewith that there should be a Central Industrial and Technical School at each divisional centre of Bihar, viz., Bankipore,

Bhagalpur and Muzaffarpur. A conference was held last month at Muzaffarpur at the instance of Mr. Greer, the Commissioner of Tirhut, who, I am glad to acknowledge, has taken a very keen interest in the educational improvement of his division, especially in connection with the Bhumihar Brahman College. The Inspector of Schools, and the Inspector of Technical Schools and the leading gentlemen of the town were invited to consider the steps that should be taken to establish a Technical and Industrial School and a workshop there. I hope their labours will bear good fruit, and that similar schools will be founded at Bhagalpur and other centres. I believe the Government makes a small grant of five thousand rupees to the Bengal Association for Scientific and Industrial Education. I wish that that grant were larger than it is, for no public money is better spent, and, at the same time, I wish to press for the consideration of the Government the claims of the similar Association of Bihar to an even more liberal contribution, considering the backwardness of education in that province.

"Another pleasing feature of the budget is the condition attached to the Imperial grant of rupees one lakh and sixty thousand to the University of Calcutta: while in the preceding year Rs. 80,000 only was set apart for grants-in-aid to affiliated colleges, this year one lakh and ten thousand has been given for the purpose. Bihar colleges, I hope, will have a substantial share of this grant, as their need is far greater than that of the Bengal colleges. My friend, the Hon'ble Babu Braja Kishor Prasad, has been dinning into our ears, in season and out of season, in this Council, the deplorable condition of the Bhumihar Brahman College at Muzaffarpur. This college deserves kind treatment at the hands of the Government. The newly-formed Tirhut Division—once the seat of Sanskrit learning and the home of so many Sanskrit scholars and jurists, such as Yagyabalka and Vachaspati—is very backward to-day in education. In fact, the whole of Bihar is distinctly backward in the matter of education, and Tirhut or Mithila is perhaps the most backward of all Bihar. We are, therefore, beholden to the Hon'ble Mr. Filgate, who has supported the Hon'ble Babu Braja Kishor Prasad and urged that the Bhumihar Brahman College should be put on a sound financial basis, while the local officials and the people have done what they could, and it is now time and the turn of the Government, and I hope the Government will not grudge its support to a really useful institution.

"I find there is an undesirable increase in the revenue from country-spirits in the Bihar districts. Though the public revenue is benefited by this increase of the habit of drinking—the worst weakness of the human race—every well-wisher of the country cannot but view this state of things with a shudder. Drink brings with it theft, murder and other crimes against the society, and the evil ought to be checked with a firm hand even at the sacrifice of public revenue.

"I am sorry our friend, the Hon'ble Mr. Dip Narayan Singh, had to withdraw his resolution about a grant of Rs. 74,000 to the municipality of Bhagalpur for the improvement of the water-supply in the Bhagalpur town. The water-works in Bhagalpur are exercising the ingenuity of capable men—much more, I think, of the Chairman of the Bhagalpur Municipality, who is our colleague in this Council. He must be passing many anxious days and sleepless nights in the dry season, when the Jamuna silts up and the Ganges recedes far away from the place where the water-works are located. The municipality has to concentrate all its energies and apply a good portion of its income to keep the water-supply to the town in a good condition, but still there is no adequate supply. If we were to go through the whole history of the water-works at Bhagalpur, a pathetic tale of continued fight against odds would be unfolded. Once there was a stoppage of water-supply for about fifteen days, and the result was a terrible outbreak of cholera such as had never happened in the town before. I think the time is come when the water-supply of the town of Bhagalpur should form a question for the Government to consider. Lots of proposals from local officials and experts are forthcoming, yet without the helping hands of the Government no suggestion can be given

[*Rai Shiba Shankar Sahay Bahadur.*]

effect to. We can well understand the reticence of the Chairman of the municipality in this Council, though I do not doubt that if any advance is made towards the consideration of the ways and means to put the water-works on a permanent basis, our friend would be only too glad to co-operate in the matter.

"I will now conclude, as I do not want to take up the time of the Council, and beg to support the budget with these few remarks of mine."

The Hon'ble Rai Shiba Shankar Sahay Bahadur said :—

"Your Honour, last year I and a few other Bihar Members had the honour of bringing to your notice what we considered to have been a defect in the Rules for election of Members to the Finance Committee. We are deeply grateful to Your Honour for the sympathetic response that you made at the time, and for the prompt measures that you have since taken in so revising and modifying the Rules as to remove the defect and redress the grievance.

"I hope I shall not be called ungrateful or hard to please, if after the great concession made I have still to point out certain unsatisfactory circumstances connected with the Finance Committee and its powers. When I was elected to the Committee as one of its non-official Members, I could not help feeling as the Hon'ble Mr. Apcar said in his last year's Budget speech he felt on a similar occasion, and I regret to state that I have been disillusioned like him. The Finance Committee has proved a veritable Armida Palace; we enter it proud of the honour, proud at the prospect of making ourselves useful, but a slight experience certainly sobers us down, and we tell a different tale as we come out. I hope for better days when the Members of the Finance Committee will have better and more useful work to do.

"Sir, the Finance Committee could not sit this year at the appointed time, because there was an unforeseen delay in getting the sanction of the Imperial Government. It met after the Revised Financial Statement had already been prepared. Under the Rules, the functions of the Finance Committee are confined to the consideration and revision of the Draft Financial Statement, and it is after considering the proposals of the Finance Committee that the Revised Financial Statement can be prepared. This year the Revised Financial Statement was made without such consideration, and the so-called Finance Committee met only after it had, strictly speaking, become *functus officio*. We are, however, thankful to the Finance Member for having consulted us as regards certain items of the Statement.

"The Rules of the Finance Committee exclude from its consideration (1) all normal expenditure of administration, including normal instances of increase, (2) all cases of new expenditure which is not considerable and which has been fixed at a sum of five thousand rupees or less, and (3) all cases of new obligatory expenditure of over rupees five thousand. So that a very small segment of the circle of expenditure comes within the purview of the Committee. This jurisdiction of the Finance Committee, which is certainly very much restricted in its limits, has been filed down this year to almost a geometrical point by the schedule of new schemes costing more than rupees five thousand, given at the end of the Financial Statement, having been entered as obligatory. In the last year's Financial Statement, the schedule of new schemes costing over rupees five thousand attached to the Financial Statement, was not shown as such, and, I suppose, it was not obligatory. Then, I find that many items of new expenditure are not included in the said schedule which one would think contained all items of new expenditure. Take for instance Rs. 3,00,000 for Delhi Durbar; Rs. 19,000 for additional grant to non-official members; Rs. 23,000 for Temporary establishment in the Secretariat Record Room shown at page 14 of the Financial Statement; New Mill Engine at Buxar costing Rs. 9,000 at page 15 of the Statement, and so forth. They are new expenditure and should be shown as such. It does not matter if they were of an obligatory character. My object in making this observation is to draw the attention of the Finance Member to the fact that, if the Draft Financial Statement is prepared strictly according to Rule 5 and according to the headings

[*Babu Deba Prasad Sarbadhikari.*]

given in the Hon'ble Mr. Wheeler's lucid speech in Council on the 28th January, 1910, it will be a great improvement.

"Speaking of the Finances and the Finance Committee, I cannot but congratulate the Finance Member on the satisfactory character of the Financial outlook of the province as disclosed in the closing balance of Rs. 85,77,000, as against 40 lakhs of the last year. It is a substantial progress in the right direction, and I hope it will be steadily kept up and improved in future.

"Sir, I now pass on to an agreeable feature of the Financial Statement of this year, viz., the new relation in which the province financially stands to the Imperial Government as the result of the alterations of the terms of the Provincial Financial settlement made by the Government of India.

"The Provincial settlement came into operation in the year 1906 with a fixed assignment by the Imperial Government to meet the Provincial deficit. The Financial outlook of the province was becoming gloomier and gloomier till, to quote Sir Fleetwood Wilson, Bengal bordered on the verge of bankruptcy. It was time therefore, that change was effected, and a change fraught with important and far-reaching consequences has taken place. For a portion of the fixed assignment have been substituted larger shares of growing revenues. The benefit accruing in the present year, however, gives but a feeble idea of the magnitude of the boon conferred upon the province by the new arrangement. It serves but to open up the avenues of future possibilities.

"The second interesting item in the Financial Statement is the amount set apart for education. The greatness of a Government is tested by the amount it spends upon the education of its subjects. In the light of the above, it is a pleasure to note how the amount spent on education in the province has been growing more and more steadily from the year 1906-07. Last year it was Rs. 59,17,000, this year it is Rs. 70,26,000, and the figures exclude the expenditure by the District Boards and that upon educational buildings constructed and maintained by the Public Works Department. The apportionment of the grant to the various items is just and satisfactory. Equally important is the special grant for Sanitation. It was time that the Sanitation question in Bengal was taken up and grappled with, in serious earnestness. The figures published in the papers of the last Census disclose a reduction of population in some of the districts, that is truly alarming. Malaria in West Bengal and Plague in Bihar are chiefly responsible for it. We hope to see that vigorous steps are taken for successfully fighting these enemies.

"Sir, the last point that I have to touch upon, is the allotment of Rs. 3,00,000 for the Royal Visit. I wish it were more; I wish we could, without in any way interfering with the welfare of the Province, set apart a much larger sum of money to testify in a fitting manner to the feelings of loyalty and gratitude that fill the heart of every Indian at the prospect of His Majesty's visit."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"It is a matter of congratulation that the Provincial revenues have been strong and well managed enough to leave us able to meet more than our normal requirements, and even to indulge in stray superfluities, repetition of which may have to be watchfully guarded against. This is due to the well-organized continuity of financial administration, the lack of which I deplored on past occasions, and the ensurance of which I ventured to predict and hope for under the firm, statesmanlike and sympathetic control of a Ruler who knows Bengal and Bengal finances as well as Indian finances, and could recover our lost caste in the Indian Secretariat. During such a *regime* we hoped that a more equitable revised settlement with the province would take place, and our hopes have not been belied. It is not given to us under the rules to criticise the policy or details of the settlement that leaves us better to the extent of the by no means negligible sum of seven lakhs and a half a year. But it may be given to us to hope that other provincial grumblers will some day succeed in getting the question reopened so that a little more may fall in our way. I am doubtful about the expediency of immediate and individual grumbling, lest worse should befall us. And the despatches on the subject published a day or two ago do not induce a change of this opinion.

[*Babu Deba Prasad Sarbadhikari.*]

"Members of the Council have had opportunities of tendering their heartfelt thanks to the Government of India for their timely and generous aid of education and sanitation. It is our bounden duty to repeat and emphasize expressions of our sincere gratitude, and it is no less our duty and pleasure to associate Your Honour's name in this connection. There must be genuine and widespread gratitude that the many causes, for which we have been pleading and struggling for the past few years, are receiving steady and substantial help. The manning and equipment of the Government colleges, the strengthening of private colleges, better hostel accommodation for our college and school students, and larger expenditure on sanitation, have been fruitful Budget themes under the old and the new rules, and all these matters will receive more or less attention during this year and the next, and I have no doubt the next and the next again. If this little and nothing more was all that we could claim as a result of our labours, I would take strong exception to the notion gaining abroad that we are a glorified debating society that might profitably invest our time and energies otherwise. In connection with the debate on the revised Financial Statement, I discounted the immediate profitableness of a study of the fly-on-the-wheel order, and I did not stay to calculate the turns of the mighty administration wheels in which non-official criticisms and ventilation—I refuse to call it agitation—may to some extent have assisted. The notion I refer to has, however, since been further gaining ground, and a little of the study of the kind I indicate may not be wholly useless. Dr. P. C. Roy has, after long years of patient waiting, been promoted to the Indian Educational Service, according to the newspaper reports, and if, in the matter of expediting that promotion persistent, non-official criticism has in the least contributed, our energies have not been wholly spent in vain. To Dr. Roy, long enlisted in the World's Educational Service, this promotion when it comes, if it has not yet come, may not mean much, well nigh at the close of his career in the service of Government. But to others who are sure to follow him—and the Budget provision of the year certainly indicates that three more of his deserving colleagues will soon be allowed to join him in the superior service—it will mean a great deal. The principle once accepted, the Secretary of State may refrain from making direct appointments to a certain extent in England, and may allow Your Honour's Government to reward arduous services of the members of the Provincial Service whose names must be before Your Honour's Government. In the same way, we may claim, with some pardonable pride, credit for the part we have been allowed to take in connection with the betterment of the Provincial, Judicial and Executive Services, the Medical service,—both as regards Assistant Surgeon and the Hospital Assistant grades—the improvement of the lot of ministerial officers of our Courts, and particularly the strengthening of the ministerial staff of the Original Side of the High Court, just sanctioned. And if these results have been achieved during the past three years much more must have preceded, which I have not had the time and opportunity to look up. I may also refer to some negative results. Non-official opposition was directed to the undue development of Fraserganj, the expansion of the Golden Crown fisheries, and the precipitate sale of Jorabagan thana in view of the purchase of the Duff's College for police purposes. The Budget before us shows the wisdom of non-official opposition in every one of these cases, though, having regard to the explanations then pressed, such opposition had to give way more or less. These are failures, no less pregnant with result than success. True, we have not been able to achieve all that we wanted to achieve. But I for one am not prepared to sacrifice the essentially oriental virtue of gratitude for small mercies.

"But even if less was achieved, we would be bound to go on all the same—we who, by accepting office as Your Honour's Councillors, are pledged to give the Reformed Constitution a loyal trial. And, if better results are to emanate, we must justify ourselves, for we, like that Constitution, are also on our trial. It is the duty of every one of us to do whatever work comes our way, as if ours was the last word on the subject, which, if absolutely given effect to, would not imperil the Constitution or the Government. We

are much in the position of the young rowers in a recent picture paper,—whom the artist makes strain every muscle rowing the boat, fast attached to a buoy, that moves not an inch, for they are earning their entry into the much coveted University Eight, and their blades are all perforated oak. We would have ourselves to blame, to a certain extent, if all our Budget proposals were to come to grief for want of care and forethought. In saying so I do not conceal from myself the severe handicap attaching to all our efforts, to which we have often had to draw attention. But we have had our reward. Your Honour generously recognized our difficulties, and was pleased to say towards the close of the last Financial debate that it was not all our own fault that, for want of detailed and timely information, we could not pick out suitable counterbalancing items. I was unfortunately alone among the Calcutta non-official Members when this—the best of the assets of that day's debate—was realized, for others more mindful of their health had left us to ourselves and sought the snugness of their cheery homes that stormy evening. Of course, Your Honour took care to warn us that even with timely and detailed information at our disposal, we should find it difficult to pick out items that the Government could assent to being left out, so carefully is the whole Budget prepared in advance. But I do not despair. If we are not regarded as wanton obstructionists deliberately bent on wrecking schemes, timely and friendly association with the departments in which we happen to take particular interest may benefit by our criticism before the Budget attains its cast-iron rigidity. For, after all, a friendly outside view of things may now and again help in taking even departmental orthodoxies out of their groove, and, in this view of things, small Departmental Committees of the kind that I roughly indicate for these purposes, may be of better use in framing the Budget than an omnibus Finance Committee that has little opportunity and less time to go into the whole question effectively.

"What good such Committees can do will be best illustrated by the labours of those that Your Honour was pleased to appoint for considering the allotments of the Imperial Educational grants. Much of the misapprehension and doubt have been removed, and seemingly unpalatable measures have been readily accepted on either side, which long debates and paper fights would hardly have achieved. I do not regret the differences of opinion that exist among the non-official members themselves, which accounts for much of their discomfiture, for I would not welcome the premature appearance of the caucuses and the whips. We are not here to embarrass the Government as some unfortunately think, but to help it in the best of our light, and that we can best do by speaking out our mind straight from the shoulder, unmindful of the fate of the particular motion before the Council in which we may consider ourselves interested. It is for the responsible Government to take note of our opinion and such information as we can give, and it would not be our fault if they fail to avail of them.

"We want the Heads of the Departments, in which any one of us happens to take any particular interest, to recognize that we are not their natural enemies who have to be kept at arm's length at any cost—sometimes at the expense of rudimentary courtesy—but that we are real friends, for the promotion of the interest of their departments is what we aim at, and this we could at times better press and advocate than they themselves.

"Having regard to his and our good luck, my quarrel is this year the least with the Hon'ble Mr. Kiichler, at least for the present, and he has my entire and active sympathy in the uphill work he has before him in rectifying many of the blunders and much of the neglect of the past, and in the ordering of the forces under the new and more trying conditions. Though I am in the fullest sympathy with well-meaning endeavours for the promotion of primary education, we must recognize our limitations, and little good could it do to try to erect model primary school-houses in all possible and impossible parts of the country, when you have not resources enough even to build up the walls to their full height which you have to leave unroofed and crowned with creepers. It is no fancy picture that I am painting, for the enterprising archæologist will come across such monumental trophies, only a few years old, and which,

[*Babu Deba Prasad Sarbadhikari.*]

like Mr. Pickwick, he must not mistake as world-old because of the plentiful coating of greenery. The order, or shall I call it the natural order, of our educational advance must, for a long while to come, be, what the Hon'ble Mr. Küchler judiciously named last year, viz., College and University, secondary and primary, entailing and involving filtration downwards all along the line. We have a remarkable lack of means as well as of men. The training up of a body of capable teachers, who will have sufficient inducement to take to teaching *bonâ fide* as a life profession, must be our first care. Once we achieve this and are given enough money, progress of primary education would be a matter of course. Before aiming at the 'logically possible' let us be sure of the 'reasonably probable'. Under other conditions you will never advance primary education as you wish to do, but will effectively starve and strangle the other branches of education—I shall not call them the upper branches. You have to hasten slowly most of all on educational lines, for a repetition of the fads and blunders of the past will hopelessly injure all education for a good long time to come, and the educationist of the future has carefully and constantly to keep this in mind. Not all, but enough for the present, has been done for College and University education by way of giving it a fair start on new lines, and we have a right to look to private assistance, which is slowly and steadily forthcoming. Our next and anxious attention must, therefore, be now turned to secondary education, for without strengthening the schools on the right lines you will never strengthen your colleges or your primary schools. The strength of the middle link would be real strength of the chain, and we are thankful that Government is recognising this and trying to add to that strength. Good, well-organised, well-disciplined schools on the model of the great public schools of England, where the nation is really built, is every day felt as a desideratum, for want of which the whole of our educational system and, I must say, alas, our social polity, is weakened. And though these schools cannot be wholly or in all cases removed from the Metropolis, or the larger cities, they have a better place in central, healthy, yet easily accessible places, free from objectionable surroundings and influences, where the better order of the residential system may have a real chance. There are already some in existence, and others of a less pretentious order are coming to the fore, and, for a long time to come, the soundest educational investments will be these schools, whether Government or private. After a few years of this new order of things in our colleges, the University as well as the primary schools will be found to wear a different aspect, very much for the better, and judicious generosity to responsible organizations will lighten the work of Government. The superior inspecting machinery has been completed, the regrading of the subordinate agency has this year been provided for, and the school work proper may now be well taken in hand and in thorough right earnest. Now that provision has been made, I have no doubt that the strengthening of the college staffs will be expeditiously carried out on correct lines, that the proposed transfer from the Provincial to the Indian Service will be effected, and that the vacancies in the Provincial Service and the Subordinate Service to which I felt compelled to draw attention by my recent questions, will be filled up, so far as they may be, till the Government of India give its sanction to the larger and long-pending scheme for the amelioration of the condition of our educational officers. Mr. Kuchler's will be no bed of roses—without thorns—for if much has been given unto him much more will be expected. His is specially the department in which has to be realized the high ideal, of which the public have been effectively reminded during the past few days, that it is the duty of all rulers to make each generation better than the preceding one, physically, intellectually and morally, and to leave it better and happier than they found it. In this arduous task, which proper education can alone lighten, the Government may rely on the active sympathy and support of all our colleagues that take an interest in education—and who does not?

"I shall not bring up again King Charles' Head—Law and the Provincial Executive and Judicial Services—for it has been rolled about a good deal of late. I am content with the assurances given, and I am confident our suggestions will be duly considered and given effect to whenever possible. I would, however, draw attention to the answer of the Hon'ble Mr. Jenkins in the

[*Babu Deba Prasad Sarbadhikari.*]

Imperial Council to the question of the Hon'ble Babu Bhupendra Nath Basu, which would make one think that the Supreme Government would not be above reconsidering matters if another representation were to be made. But whether the initiative was to be taken by Your Honour's Government or the High Court, it would be hardly within the competence of this Council to indicate. Regarding the improvement of the Courts of the Calcutta Honorary Magistrates, I have made further inquiries since the Financial Statement was presented, and believe that some temporary rooms could be inexpensively placed on the roof of the one-storied building to the west of the main building and a connecting bridge may be provided. And closer and stricter supervision of office work and a slight additional cost, would make the deputation of the necessary court clerks to more Honorary Courts possible. Congestion in the offices and the court of the Calcutta Court of Small Causes has been complained of, and, as we heard in answer to my question this morning, this complaint is well founded. We are glad to hear that Government is prepared to consider the question of suitable relief. Real improvement would, however, be impossible unless substantial assistance, both in the judicial and ministerial sides, be provided. While unable to appreciate the correctness or efficacy of discussion of these matters in open Court between the Bench and the Bar, I would remind the Council of the possibilities of Honorary Civil Benches to which I referred in the course of the Financial debate, in connection with the strengthening of the Courts of Honorary Magistrates. Congestion in the work of the offices of the Original Side of the High Court, which will be still greater if the Court has to be further expanded, as stated in some circles, has long been a matter of complaint and been brought to the notice of this Council. The foundling, now more than three years' old, that no one would own for a while and that went through the successive orthodox stages of lofty philosophical apathy, active ridicule and partial sympathy, is after all to be recognised and cared for. A sum of Rs. 23,000 has been provided for strengthening these offices, which may barely meet present requirements, but will soon be inadequate. And in order to get full value out of this bare accommodation, it is of the greatest importance that the whole should be found at once, and not by instalments, as is believed to be contemplated. Outside guard has been provided at an equal cost under a capable and tactful Superintendent, who is making the Court wear a different look. But the security of inside strength is no less necessary, and in this we are thankful to have made a beginning. The Hon'ble Mr. Chapman had practically no reply to give me with regard to the Advocate-General's extra fees in Original Side cases, and this, as well as the possibility and desirability of reducing counsels' and pleaders' fees all round, without impairing efficiency or thoroughness of service, may well be pressed on the attention of Government again.

"The next items of Budget allotments to which I would draw the attention of the Council will be the Medical, in regard to which also there is cause for much gratitude which must be suitably expressed. The status of the Civil Medical Assistants has been placed on a suitable basis, and provision has been made for improving the Assistant Surgeon's branch of the service, which it is hoped will be further improved by larger opening from its ranks to the Civil Surgeon's ranks. The pending appointments to selected Chairs in the Medical College from their ranks or the ranks of non-official practitioners, will be watched with anxiety, and the first erroneous step will jeopardise the ultimate success of the movement. In April last, we were told, with reference to my suggestion that retrospective effect might be given to reorganisation of the services of Civil Assistant Surgeons and Civil Medical Assistants, that the change will be introduced from the date of the orders approving it, which were expected early.

"One other year has gone by, and the Hon'ble Mr. Wheeler, in reply to my question in February last, was pleased to say that the question of the improvement of our Assistant Surgeons is still awaiting the orders of the Government of India and the Secretary of State. When all this delay has occurred, I would once more respectfully ask that retrospective effect to the suggestion for reorganisation would not be too much to ask for,

[*Babu Deba Prasad Sarbadhikari.*]

and that the final settlement of the question should be expedited as much as possible. With regard to the question of allowances and periodical departmental examination, there seems to be no reason why the treatment of demonstrators in the Medical College should be differentiated from that of teachers in Medical schools. The demonstrators have no hospital work which is to their disadvantage, particularly as regards private practice, which teachers are allowed to take. But they do no less practical and scientific work, and it is to be remembered that while third grade officers are to be found in the ranks of teachers, second grade officers are often deputed to act as demonstrators. Ever since assumption of your high office Your Honour has taken the greatest possible interest in our hospital work, and the latest addition to our hospital accommodation in the Medical College compound, which Her Excellency Lady Hardinge opened the other day on Your Honour's invitation, is an ample demonstration of the anxiety of the Government to make up for past deficiency. One other direction in which anxiety is agreeably visible is Your Honour's desire to make the best of and fully utilize the growing non-official medical talent of the country, which, it is refreshing to observe, has excited no official jealousy. The heads of the Medical Departments of the Government of India and of Your Honour's Government are in active sympathy with these aspirations, and it is encouraging to find that Your Honour has taken the first step towards full utilization of those talents in the service of a well-equipped, up-to-date and central non-official Medical institution, by the appointment of a representative Committee to investigate the matter. It is a matter of still greater encouragement that most of the scattered stray forces have agreed to combine in aid of this noble common cause, and it is to be hoped that a self-abrogating public spirit will bring in the outstanding forces and thus make some semblance of central control possible without friction. The memorial in honour of our late lamented Sovereign will take the highly acceptable shape of relief of suffering humanity, towards which Your Honour's Government has agreed to make a handsome contribution. I miss the Budget allotment in this excellent cause, but I am sure that it is somewhere provided, and that should the non-official Medical institutions or the larger majority of them combine in the course of the year, it will be possible to give the central institution help, so that much and long-needed supplemental medical education of the right type may be easily available, and, together with it, adequate and reasonable control of the medical profession.

"I should like to make one passing observation with regard to some increased figures on the credit side, namely, those under fines and Excise revenues which have caused us no little anxiety. That condign punishment, whether in the shape of fines or otherwise, should be unhesitatingly inflicted whenever and wherever necessary, is a proposition that no sane man should for one moment dispute. Law and order must be maintained at any cost, both in the interest of the Government and the governed, but it makes us anxious that fines and realizations on account of punitive police are on the rise. I should like to see the Regular Police better strengthened, for which no one seems to have a good word now-a-days, for upon the success of the direct appointments to the higher posts, made for the purpose of raising the tone of the service, depends the future of the force.

"The cautious and considerate clemency of Government as demonstrated in the Khulna Gang Case on Saturday last, is an object-lesson of anxious interest, and it is sincerely and devoutly to be hoped that this departure will be amply justified and bear the best of fruits, and that the saving of costs and trouble, upon which unnecessary stress was laid, are not its strongest features and best recommendations.

"While unavoidable evils must be taxed by way of keeping them down, it is never sound policy to aim at making them sources of revenue, that one would not desire to see continued longer and to a greater extent than can be helped. And in this view of things one cannot but regret the rise in the Excise revenue, though the Hon'ble Mr. Macpherson, to whom we bade a

[*Babu Deba Prasad Sarbadhikari.*]

regretful good-bye the other day and whose place has been taken by our good old friend, the Hon'ble Mr. Greer, whom we are glad to welcome back to Calcutta, was no doubt guarded in his appreciation of this rise. This however, makes us no less anxious.

"Dealing with the serious state of affairs which the Budget reveals regarding the expansion of the revenue from Excise, one is obliged to ask oneself and the Government as to when this constant increase is to stop. We are told that improved methods of Excise administration, and the prosperity of the people, are responsible for these figures. When, then, may the Excise administration be regarded as really and finally efficient?

"Year after year we hear this stereotyped explanation, and it must be somewhat of an unwelcome reflection on those who have administered this department in the past to attribute better results now, to faulty administration in the past. And what is the test of efficiency? Is it not the fact that year after year this department is expected to show an increase in revenue? On a previous occasion, quotations (chapter and verse) were forthcoming, to the effect that certain Excise officials deplored a falling-off of revenue in some of the backward parts of the country. For 1910-11 it was estimated that Rs. 1,70,52,000 would be realized by this department. This year in the revised estimate Rs. 1,81,00,000 is put down as the larger figure which the department is expected to realize, and we are supposed to express satisfaction at this.

"The British Chancellor of the Exchequer, in introducing his revised budget figures, expressed his pleasure that his estimate of the yield from the increased whisky tax was £800,000 less than he has estimated.

"I am afraid, judging from past experience, that no such pleasure will await the Member in charge of the Budget of this Province next year.

"When it is realized that a sum rapidly approaching two crores a year comes into the coffers of Government through the liquor and drug shops of the Province, it is surely time to ask what steps can be taken to check the growth of this drink and drug habit, for it would be a pity indeed if people's prosperity was to take, even partially, this questionable channel of exhaustion.

"When this Council recently passed the new Excise Act, (Bengal Act V of 1909) it was claimed and expected that it would strengthen the hands of the Administration, and no doubt it has improved the machinery for collecting the revenue.

"But it must be admitted that, so long as the auction system is maintained, there is no likelihood of real improvement from a true civic standpoint of view. What happened in Calcutta at the last licensing settlement? Practically every shop was settled at a higher rate than at the preceding settlement.

"This means that every license-holder must somehow or other increase his sales

"How then can active steps be effectively taken to check questionable methods of liquor-selling, when the licensee has to make out a much larger amount to pay month by month by any means that he can think of.

"What steps have been taken to restrict the consumption of liquor and drugs this year? One liquor shop was closed in Calcutta, 19 *tari*-shops and three country-liquor shops in the whole of Bengal.

"In Bombay, during the *Holi* festival all the liquor shops were closed at 7 o'clock, and one may be pardoned for asking why similar action could not be taken in Calcutta.

"The scenes in certain quarters of the city witnessed this year, would not have been possible if the earlier closing of the liquor shops had been enforced, though possibly there might have been in the future a slight Excise deficit."

[*Babu Isha Prasad Sarbadhikari.*]

"Exception was taken, in connection with the Financial Statement, to my proposal for reduction of the charges due to amalgamation of the Salt and the Excise Departments. Though the same Commissioner administers the two departments, that by itself does not appear to be entire justification of the amalgamation, particularly as it may lead to confusion. The Salt revenue is what may be called 'Imperial', while the Excise revenue is purely Provincial, and there does not seem to be much connection or affinity between the two, though one would like to take Excise explanations with considerable *grains* of salt. Nor has any need for the amalgamation been indicated.

"The Hon'ble Mr. Gourlay, whose genial personality yet powerful presence, I regret, we shall soon lose for a few months, did not last year quite like my reflection that it was no very illuminating explanation of the falling off of Registration revenue to say 'that the reason for decrease is chiefly a decrease in the number of registrations effected.' He said 'stagnation in trade would scarcely affect stamp duties and registration fees'. This year we are told that 'the decrease of registration receipts is attributed to the falling off in the number of registrations owing to the good harvests of the preceding year.' There must be some mistake somewhere, in one or other of the explanations, for both can hardly be correct. Last year the Hon'ble Mr. Gourlay said that the question I raised was an interesting and complicated one, and that, to clearly explain all the reasons for the decrease and increase, would entail a very searching inquiry. I do not know whether such an inquiry has been held or not. Last year the Hon'ble Mr. Gourlay told us that it is probable that the decrease in the number of transactions during a period of stagnation of trade would directly lessen the stamp revenue, while a period of scarcity, when the cultivator is driven to mortgage his holding, would necessarily increase the number of registrations and the amount of the registration fees. In saying so he overlooked the fact that most registrations meant also revenue in stamps. The estimate for the year 1910-11 was based on the actuals for 1909-10; and even though the explanation then offered did not appear to the Hon'ble Mr. Gourlay to be exhaustive, 'it would be very unwise', he said, 'to estimate for a large revenue'. I did not desire to put him a problem of mere academic or economic interest, but it has an intensely practical aspect, and I myself have not been able to answer the problem satisfactorily. Though the Hon'ble Mr. Gourlay questioned the wisdom of estimating for a large revenue, his mortified expectations have been belied, and we are told this year that the falling off of registration receipts, which was due the previous year to scarcity, is due to prosperity the next year. Regarding the falling off of the stamp revenue this year, we are told that the lesser figures are due to the non realization of the expectations by the Government of India of large increase from increased new taxation. The problem is, therefore, farther from solution than ever, and is not a mere academic puzzle. It has to be carefully handled in the interest of practical finance.

"I would finally refer to the provision for three lakhs of rupees in connection with the Coronation Durbar. There is nothing in the Budget to indicate whether it will be for expenditure in the Province or on account of the expenses of the Province at Delhi. The latter, we take it, would be all Imperial charges, and all who have the honour of an invitation to Delhi will be treated as Imperial guests. If, however, my reading of this item be mistaken and the three lakhs are to cover the expenses of the Province at Delhi, the Province will have nothing in the Budget to give a good account of itself with here, and this omission has to be rectified in time. We cannot possibly agree with those who have taken upon themselves to say that this provision is extravagant. As was forcibly emphasized at the city's demonstration on Wednesday last, over which Your Honour fittingly presided, the occasion will be unique, historic and unsurpassed. But not only the city, but the Province, will have to rise to the unparalleled height of the occasion when the crowned Monarch of one-fourth of the human race visits his faithful subjects for বহুজনেরতার্থে বা নর রূপেণ তিষ্ঠতি who must have a fitting ovation. A few thousand rupees provided under the head 'Political' for extra Durbar presents will never furnish the requisite ways and means."

[*Rai Baikuntha Nath Sen Bahadur.*]

"I am more than near my time-limit; an attenuated budget debate and an expansive budget balance ought, I supose, to be interdependent on one another; but we take no note of time but by its loss. And this reminds me that we are already dealing with the third Budget of Your Honour's *regime.* That short time has been unconscionably lengthened by public troubles and private troubles, in which Your Honour has our best sympathy, but which Your Honour has alike manfully refused to let tinge your *regime.*"

The Hon'ble Rai Baikuntha Nath Sen Bahadur said:—"May it please Your Honour,—According to the rules of this Council the Budget is to be accepted and no modification at this stage are possible. Privilege has ostensibly been given to the Members of this Council by permitting them to move resolutions at the time when the Revised Estimate is placed before the Council. Several Members of this Council moved resolutions in the exercise of that privilege, but I have to express my deep regret that this privilege is one of semblance only and not of substance. No resolution moved by a non-official Member, however just it might be, can be accepted by the Council unless Goverment chooses. Discussion on the occasion of the Budget is more or less of an academical nature, though it is expected that some good results may follow by the curtailment of some sub-heads on expenditure and a certain amount of money may be saved and devoted to other and more useful purposes. It may, also, to a certain extent, influence Your Honour in the preparation of the next year's budget.

"In addressing Your Honour on this occasion, I shall bear in mind what happened last year on this very occasion, when Your Honour was pleased to refrain from enforcing rigidly the rules of relevancy but was pleased to accord a certain amount of latitude to Members, with a warning that the procedure observed on that occasion would not be considered as precedent for the future. We are in duty bound to give effect to Your Honour's pronouncement, and I shall therefore confine my observations with regard to certain items in the Budget on the Receipt and Expenditure sides, and also to certain omissions.

"Your Honour's Government is to be congratulated for the modifications which have been approved by the Government of India in the terms of the financial settlement with the province with effect from the 1st April, 1911, though I beg respectfully to submit that the settlement does not come up to our expectations. My humble submission is that the financial relations between the Government of India and the Bengal Government ought to be based on a different and juster principle. It is gratifying to find that, by the last settlement with the Government of India, there have been secured additions to the growing revenues of the province under Excise and Forest. We have also cause to be grateful to the Government of India for the fixed recurring grant of Rs. 7,48,000 annually.

"As regards the revenue from Excise, to which reference has been made by the Hon'ble Babu Deba Prasad Sarbadhikari, I have a few remarks to make. I deem it my duty to submit one matter for Your Honour's careful consideration. The Bengal Government share in the Excise revenue has been raised from one-half to three-fourths. In the Budget I find under the head 'Excise' that the actuals in 1909-10 amounted to Rs. 1,67,92,558, while the figures in the first eleven months of 1910-11 show an increase of Rs. 10,20,000 over the actuals of the corresponding period of the preceding year. The revised estimate for 1910-11 has, therefore, been passed for Rs. 1,78,00,000, and, allowing for a progressive increase of three lakhs, the estimate for 1911-12 has been placed at Rs. 1,81,00,000. The provincial share amounts in 1910-11 (one-half) to Rs. 89,00,000, and in 1911-12 (three-fourths) to Rs. 1,35,75,000. I also find amongst the remarks that increase in the revised estimate is due to the better settlements and increased consumption of country spirits. In view of the fact that there would naturally be an inclination on the part of Government to see further growth of revenue from Excise, I am afraid not much respect would be shown to the acknowledged principle that maximum of revenue should be sought with minimum of

[*Rai Baikuntha Nath Sen Bahadur.*]

consumption. Temperance should not be sacrificed at the shrine of revenue Instructions are, therefore, necessary for the guidance of the department for minimising consumption, of course safeguarding the growth of revenue at the same time. I venture to suggest that instructions ought to be issued for securing decrease in the number of shops for the sale of spirituous liquors, *ganja*, etc., and that if the auction system is done away with when a settlement is made, it will minimise consumption. I also venture to suggest that with regard to the manufacturing of spirits in distilleries greater care should be taken for limiting their quantity, temperature and strength and for enhancing the rate of duty. If this course be adopted with the growth of revenue, larger consumption will be appreciably checked.

"We ought to express our gratitude to the Government of India for the additional assignment of Rs. 35,23,000 from the Imperial revenues. This sum includes a special contribution of Rs. 24,50,000 for expenditure on Education, and of Rs. 10,00,000 on Sanitation. We do not know on what terms, if any, the grants have been sanctioned. In the Budget, however, under head 'Education,' we find an increase of less than fifteen lakhs over the Revised Estimate. The whole grant has not, therefore, been provided for, and this requires some explanation.

"As regards the grant for the improvement of sanitation, mention is made in paragraph 60 of the Budget that Rs. 11,46,000 have been provided for grants to municipalities and other local funds, of which one of the items is a lump provision of Rs. 9,50,000 for grants for works of sanitary improvement, etc. Besides this, under head '24—Medical,' sub-head 'Sanitation and Vaccination,' provision has been made for Rs. 2,61,000. Information regarding some details is desirable. It would give us satisfaction to learn whether the Government has in contemplation any definite scheme for sanitary improvement, and, if so, any explanatory remarks as to how the money has been provided for, will be welcome. Special attention should be given to the supply of drinking water, and for this purpose the district boards and municipalities should be financially strengthened. In this connection, I draw attention to the fact that the last census shows that there has been a decrease of one lakh in the population in the districts of Nadia and Jessore.

"Ample provision has been made for expenditure under head '19 A—Courts of Law,' and sub-heads 'Legal Remembrancer and High Court Pleaders' and 'Mufassal Establishment.' It is to be hoped that the amount provided will not be spent. Services of Government law officers should be utilised, and a moderate fee allowed.

"I have nothing to say against the increase of the retaining fee of Government pleaders and Public Prosecutors. On the contrary, I should consider it an act of justice to a class of Government officers who are under-remunerated. In this connection, I feel bound to congratulate Government on the action taken in regard to the Khulna Gang Case. Extreme clemency has been shown to the accused who made confessions and who have been discharged after eight months' detention. The policy adopted by the Government, I feel sure, will have the desired effect, and those who entertain anarchist ideas will be induced to develop loyal ideas, and disloyalty will be checked. This bold step taken by the Government has done away with the necessity of a protracted trial by the Special Tribunal and it has effected a saving of a large amount of money.

"Rupees 85,97,000 have been provided for the Police. It is to be hoped that expenditure under different sub-heads will be curtailed without affecting efficiency, and thus a saving will be effected for the benefit of general administration.

"There is sufficient room for curtailment of expenditure in the Criminal Intelligence Department. The popular belief is that large sums of money have been spent by subordinate officers who have practically to render no accounts. A large number of items of expenditure being of a confidential nature, publicity cannot be given to them. The public cannot, therefore, be

[*The President; Maharaj-Kumar Gopal Saran Narayan Singh.*]

blamed if they believe in the existence of extravagance and leakage. I do not for a moment imagine that superior officers do not exercise a proper check, but I do submit that some of the subordinate officers take advantage of their practically secure position.

"No provision has been made in the Budget for the improvement of the pay and prospects of the members of the Provincial Service. While the Revised Financial Statement was before the Council, I moved a resolution on the subject, but it was lost. I deem it proper to refer to this matter, in the expectation that the case of these officers will be dealt with in a manner satisfactory to them in the near future. I know repetition does not strengthen arguments. But repetition of appeals and entreaties may furnish grounds to Your Honour for reconsidering their case.

"No provision also has been made in the Budget for expenditure that may be incurred by the separation of Judicial and Executive functions. There ought to be no further delay in the introduction of the system, even if it be in a tentative way. I am sure the Government will be put to inconvenience if savings be made from some items of expenditure. But further delay is undesirable and unjustifiable.

"Now that the Khulna Gang Case has come to an end, the expenditure budgeted for, for the conduct of the case before the Special Tribunal, will not have to be incurred, and this saving under the head '19A—Law Courts' may be profitably utilized for this purpose.

"This reformed Council is now entering into its second year of existence. The past year's experience has shown that the relations between the Members, officials and non-officials, Hindus and Muhammadans, Biharis and Bengalis, have been all of a cordial character, and the treatment they have received from the Hon'ble President has been one of indulgent kindness.

"The visit of their Majesties the King-Emperor and the Queen Empress and the Durbar at Delhi, will be an unique occasion in the history of India, and will give rise to an unfeigned joy throughout the Empire. Their Majesties' visit to Calcutta will be hailed with special joy by His Majesty's subjects under Your Honour's administration. I feel confident that a real and genuine display of loyalty and devotion to the Throne will be a prominent feature in all the demonstrations. This visit will be the beginning of a new era, and the germs of disloyalty and disaffection, which are now in a moribund condition, will disappear entirely, and peace and loyalty and devotion to the Throne will prevail throughout the Empire. The provision of three lakhs of rupees for the Delhi Durbar will undoubtedly meet with general approbation. But we should be glad to learn as to how this money for the Royal visit is going to be spent."

The President said:—

"The Hon'ble MAHARAJ KUMAR of Tikari's speech has been circulated to all Members of Council, and he suggests that it may be taken as read."

The following speech was accordingly taken as read:—

"YOUR HONOUR, I wish to congratulate the Hon'ble Mr. Duke on the satisfactory nature of the Budget that he has presented to the Council.

"The Budget debates in the present Council, though a great improvement on what the Budget debates in the old Councils used to be, have yet very much the nature of mere academic disquisition. This year it seems to have been specially so, partly because the Finance Committee was invited to discuss the Financial Statement at so late a stage and on such very minor points, and partly because the Government could not see their way to accept any of the important resolutions moved by the non-official Members. One can understand and appreciate the reasons that led to the meeting of the Finance Committee at a late stage, but those reasons do not seem sufficient for the

[*Maharaj-Kumar Gopal Saran Narayan Singh.*]

Committee when once invited not being given sufficient time or subject matter for discussion. That Government must have had sufficient reason for following the procedure that was actually adopted one can well understand, possessing as we do in Your Honour a ruler who is in an entire accord with the spirit of the new institution. I point out what seem to me defects that will no doubt be remedied when the next occasion arises.

"*High Court.*—The Calcutta High Court costs Your Honour's Government a very large sum of money, and expenditure under this head seems likely to keep increasing. The advantage of the High Court, however, is not confined to these provinces alone. The Province of Eastern Bengal and Assam shares these benefits of this institution. May I request Your Honour to so arrange matters with the Government of India that the new Province may bear a due proportion of this large expenditure and give some relief to the resources of Your Honour's Government already so largely burdened with its own expenditure. I would urge this matter on Your Honour's attention, as the present number of Judges seems hardly able to meet the demands of the public, owing to the increase of work by the formation of Special Tribunals to try political offences. In this connection, Your Honour, I beg to point out that the present arrangement of Benches in the High Court puts the Patna Division to great hardship.

"In connection with the great expense incurred in maintaining the High Court establishment, I wish to draw Your Honour's attention to the cognate question of lawyer's fees. Is it possible for the Government to so arrange matters that Crown lawyers, instead of receiving the enormous fees they now charge, should be obtained on some fixed and reasonable salaries? In view of the fact that lawyers of great eminence and ability are always available to act as Chief Justices and puisne Judges on comparatively speaking moderate salaries, Crown Counsel might probably be obtained on similar terms. If this were done, the Government would act in a manner that would not only lessen the cost of their own legal work, but would also give relief to the general public who have to obtain the services of eminent legal gentlemen for their own private business. It is remarkable that one of the legal journals suggested only a little while ago that the remuneration of the lawyer's services ought not at the outside to be much above the maximum remuneration payable to the head of the Judiciary.

"*Provincial Settlement.*—I beg to offer Your Honour's Government my respectful congratulations on the favourable terms of the new provincial settlement. The new settlement, judging from the speeches of the Hon'ble Sir Guy Fleetwood Wilson and the Hon'ble Mr. Meston in the Imperial Council, is going to be of a permanent nature. Your Honour's Government will now be free from the minute control that used to be exercised over provincial expenditure by the Imperial Government. Having a freer hand and permanent resources, Your Honour's Government will be able effectually to deal with the difficulties of the province.

"*Imperial Government Grant.*—The Imperial Government, with its usual foresight, has placed large sums at the disposal of Your Honour's Government for sanitation and education. May I venture to offer Your Honour's Government my respectful congratulations on this unexpected good fortune? May I urge the claims of the Province of Bihar to share in the Imperial bounty? Bengal is looked upon as an advanced Province largely because of the great spread of education; while we in Bihar are backwards because of our comparative shortcoming under this head. May I urge upon Your Honour's attention that this disparity should not be allowed to last much longer, and that a substantial portion of the Imperial grant for education be applied to the needs of Bihar?

"Our highly educated compatriots of Bengal have made all India ring with the fame of their Province for insanitariness, while Bihar has justly until recent years been looked upon as one of the healthiest parts of the Empire. But, in spite of its ancient fame for salubrious climate, things have altered very much in recent years in Bihar, and now plague and malaria have

[*Babu Hrishikesh Laha.*]

found such a foothold among us that it seems difficult to eradicate them. May I press upon Your Honour's attention the necessity of appointing a Commission to inquire into the reasons of this grave change. This Commission might also suggest means for remedying the present evil.

"*King-Emperor's visit.*—All India rejoices at the prospect of the King's visit to this country, and I wish to convey the thanks of the zamindars whom I have the honour to represent for the initiative taken in this matter by Your Honour personally by presiding over the Town Hall meeting last Wednesday. No efforts should be left untried to give their Imperial Majesties a welcome befitting the enthusiastic loyalty that exists all over India. In this connection I wish to emphasize that there is no community more genuinely and enthusiastically loyal than the zamindars of Bihar. In the demonstrations that are to be arranged to celebrate the occasion, I trust the zamindar community will be given the place that is their due in view of the large stakes they have in the country and the loyal support they have always given to the Government."

The Hon'ble BABU HRISHIKESH LAHA said:—

"Your Honour.—The most prominent feature of the Budget is its large opening balance of Rs. 1,23,08,000 and the closing balance of Rs. 85,77,000. But, if we analyse the latter, we find that the prosperity budget is more in name than in reality. True, we have included in it the grant of Rs. 17½ lakhs from the Government of India towards expenditure on Education and Sanitation, but we are so tied down with instructions that we are not free to spend the amount in any way we like, where our requirements are most urgent. The balance consists of 40 lakhs for the Calcutta Improvement Scheme, and 20 lakhs for the prescribed minimum, so that a small amount of a little over 8¼ lakhs only will be left to meet the progressive requirements of our Province. The balance of receipts over expenditure is, however, a happy sign, and the recent change in the terms of the Provincial Financial Settlement will give more stability to our finances by allowing us a free hand in the control and management of our own enlarged resources. The effect would be beneficial on account of the circumspection and carefulness which the new system would necessarily ensure.

"I have now to congratulate Your Honour on the recent constitution of the Executive Council, which will assist Your Honour in the administration of the Province. The selection of my honourable friend, Rai Kisori Lal Goswami Bahadur, as a representative of the Indian community, is really a happy one, and I feel confident he will fully justify your Honour's choice.

"Notwithstanding the cheerful aspect of our present financial position, the addition of Rs. 5,14,000 to the already heavy expenditure upon law-charges throws a shade of gloom upon it, but it cannot be helped. The recrudescence of political crime after a temporary lull is greatly to be deplored, and, in spite of manifest attempts at economy, the increase of law-charges appears to be inevitable.

"It is a matter of sincere congratulation that the proposals of the Ministerial Officers' Salaries Committee have been taken up in right earnest, and that the increased salaries of the ministerial officers will be paid with arrears of 1909-10 and 1910-11. Last year Rs. 1,40,000 was provided for in this direction, and in the ensuing year Rs. 1,35,000; so it will be seen that a considerable sum has been allotted to improve the position of the clerical services. The grievances of the Assistant Surgeons have not been overlooked, and the provision of Rs. 41,000 for the improvement of their pay and position in the present Budget goes to shew that their claims have also been considered.

"*Sanitation.*—The special grant of 5 lakhs for expenditure under this head over and above the usual provision of 4¾ lakhs, making in all 9¾ lakhs, will, let us hope, be productive of benefit to the Province, especially when we consider the ravages of malaria and other diseases. I hope that every facility will be given to the people for the purchase of quinine, especially in the malaria-stricken areas, so that they may not find it difficult to obtain it when they require it most.

[*Babu Hrishikesh Laha.*]

"In the last Budget Rs. 8,90,000 was allotted to the District Boards to increase their resources, but in the present Budget Rs. 9,25,000 has been granted; and though the increase is small when divided between the several District Boards, it will, however, be greatly appreciated by them.

"In the speech on the last Budget Your Honour was pleased to observe that seventeen fresh projects were sanctioned in 1909-10. The public will be glad to know what further projects have been sanctioned in 1910-11. As a member of the Drainage Committee, I know that sanction has been accorded to the improvement of the Nawi and Sunthi rivers in the neighbourhood of Baraset, which is expected to remove the unhealthiness of that area. The drainage of the swampy area under the Magra Hât Drainage project for which sanction had been obtained before, and the conversion of that area into culturable land, which will give employment and profit to thousands of our agriculturists, will remain a standing monument of British generosity. To my interpellation regarding the re-excavation of the Bager khal, I was told in reply that it was not in the contemplation of Government to make any improvement, 'as it does not appear probable that the parties affected would be willing to pay for the cost of such re-excavation.' So far as I am aware it was estimated that the re-excavation would cost 4 lakhs; and if Government be pleased to make a liberal contribution by way of grant, and the District Boards of Nadia and the 24-Parganas pay their quotas for the improvement, the balance could be raised by loan from Government. If this project be taken up under the Bengal Sanitary Drainage Act, there would be no difficulty in providing for payment of interest and Sinking Fund; and as the debt will be paid off in the course of 30 years, the cess that will be levied from the tract will not press hard and be felt as a grievance, considering that the locality will be free from the epidemics of fever and cholera, and that the inhabitants will get a supply of good drinking-water. I beg leave to commend this project to the best consideration of the Government, as it will do an immense amount of good to the people of the affected locality. While on this subject, I may be permitted to inquire why a further provision of Rs. 30,000 has not been made in the present Budget for the water-works of the Hooghly-Chinsurah Municipality, for, if I am not mistaken, Government generously consented to contribute a lakh of rupees towards the cost of the scheme. In 1910-11, Rs. 70,000 was provided for, and, as I understand the work will be taken in hand shortly, there should have been an entry for the balance in the present Budget.

"*Education.*—It is gratifying to observe that a larger amount has been allotted for primary education than that in the year 1910-11, but it is to be regretted that the Technical and Industrial schools have not received similar consideration, as in the present Budget we find that the allotment under this head is only Rs. 54,000 with a note of 'larger deduction made for probable savings with reference to actuals.' I hope and trust that it will be found possible to spend the entire allotment usefully in the coming year.

"*Munsiffs' quarters.*—I have to thank the Hon'ble Mr. Duke, for the uniform courtesy with which he considered the various suggestions that we made in the Finance Committee. I thankfully acknowledge that from the original allotment of Rs. 1,75,000 made for the lines for the new company of Military Police to be stationed near Calcutta, he consented to take off Rs. 20,000 and accepted my suggestion to allot Rs. 20,000 out of it for the construction of quarters for Munsiffs who, as a rule, find it difficult in several places to get decent lodgings.

"As no explanation has been given in the Remarks column, I do not understand why Government should incur the not inconsiderable expense of Rs. 1,07,000, in the entry for 'Timber and other produce removed from the forest by consumers and purchasers.' I do not think it is the policy of Government to spend such a large amount for the benefit of consumers and purchasers in order to encourage the sale of timber, and some explanation on this point is necessary."

[*The President; Maulvi Saiyid Muhammad Fakhr-ud-din.*]

The President said:—"The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN'S speech has already been circulated to all members. If the Hon'ble Member does not particularly wish to read out his speech, it may be taken as read."

The Hon'ble Saiyid Muhammad Fakhr-ud-din said:—"I leave it to Your Honour."

The following speech by the Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN was, accordingly, taken as read:—

"YOUR HONOUR,

"Though the rules only permit the making of general observations at the time of final discussion of the Budget, without admitting any resolutions for any alteration or change on any head in the Financial Statement under discussion, yet I am fully confident that the observations made and remarks passed by the Members of the Council are not altogether ignored or left unnoticed. Such remarks are not intended to bring about any substantial change on the main heads of the Budget allotment, but they serve to represent the demands of the people of the Province. Such observations are expected at least to supply material information, in order to be of use in the preparation of the Budget in the next year. Sir, it is only with that idea that I crave Your Honour's permission to pass a few remarks on some important matters.

"*Education in Bihar.*—Sir, it is admitted on all hands that education plays an important part in the progress and prosperity of the country, and at the same time it cannot be denied that Bihar is yet far behind its sister province Bengal in the matter of education. The reason is not far to seek. In the beginning, unfortunately, Biharees did not think it worth while to avail themselves of western education on account of some ideal prejudices, but, when better counsel prevailed and such prejudices were shaken off, and guardians began to care to educate their children in schools and colleges, they could not find such facilities in the Province of Bihar as are afforded in Bengal.

"There was a time when only one Government college was sufficient to educate the students of Bihar, but time changed, and changed very rapidly. People of Bihar began to feel the necessity of establishing other colleges in the various districts and divisions. Even the people of the Trans-Gangetic part of the province did not lack behind; they started a college at Muzaffarpur. It cannot be reasonably contended for a moment that only one Government college could be at all adequate to satisfy the demands of the rising generation of Bihar. Bihar is really indebted to the founders of the private colleges for their patriotism and public spiritedness. But the question is, are the people alone to take care of themselves, or is the Government bound to afford all possible facilities of education to them? The answer is plain, and we cannot deny that, if the Government would not have extended its helping hand, it would have been difficult, rather, absolutely impossible, under the rigour of the new University rules, to maintain most of these private colleges. But, Sir, with all this, we have yet to complain that the help has not been adequate to meet our requirements and to maintain the private colleges in an efficient condition.

"*Bihar National College.*—Sir, there has hitherto been a bitter feeling that education has been neglected by Government in Bihar, as comparatively very little money has been allotted to the share of Bihar. But people of Bihar are really grateful to Your Honour for the early step which Your Honour took in visiting the Bihar National College. At the time of Your Honour's visit to that College, Your Honour's appreciation of the needs and wants of Bihar in the matter of education, and Your Honour's promise to take keen interest and give all possible help in the matter of education in future, have not only tended to remove the misgivings from the minds of the people of Bihar, but have given new life and impetus to the general public. Your Honour's visit was not of a formal character, but of a substantial nature. The general grant of Rs. 5,000 for the improvement of that College, and a special grant of

[*Maulvi Saiyid Muhammad Fakhr-ud-din.*]

Rs. 2,000 for the purchase of some necessary apparatus for the laboratory of the College, will no doubt go to satisfy the partial needs of that College. But, Sir, we are yet in need of more money in order to place the College in an efficient and satisfactory basis, and, Sir, we can do nothing, unless we receive substantial help from Your Honour's Government.

"I understand that the Bihar National College is the only college in Bihar which has hitherto received help from the maintenance grant up till 1909-10; the grant was limited to Rs. 2,400 annually, but we are much grateful to the Hon'ble the Director of Public Instruction of Bengal for doubling the amount in the year 1910-11, when he was convinced of the needs of that College. I am more grateful to him, as he was able with much difficulty to help the College after the Budget had already been passed.

"The little money collected from subscriptions and college fees, even though supplemented by the maintenance grant of Rs. 400 a month has compelled us to keep the College on a comparatively poor scale. We have not been able to pay adequate compensation to the tutorial staff. I believe, Sir, the pay which the Professors of the Bihar National College get is comparatively too low to expect from them a guarantee of their being permanent, or at least having a reasonably long connection with the College. I am fully convinced that Your Honour will share with my views that constant changes of Professors bring a dead loss to the students and the College.

"We have carried out the suggestion of the Hon'ble the Director of Public Instruction of Bengal in raising the fee of the students of the College, but even this has not enabled us to make any decent increase in the pay of the Professors.

"I agree with the Hon'ble the Director of Public Instruction that the matter of grants-in-aid should not form the subject-matter of Resolutions on the items of Budget, as they come under the details of expenses, and it was on that account that I did not move any resolution for the increase of such a grant to the Bihar National College.

"Moreover, Your Honour has seen the disadvantageous position of the Members in moving the resolutions in connection with the particular items of the Budget. We have not only to press our demands, but we have to suggest a proportionate decrease on some other head. But the shortness of time that we get for the study of the Financial statement placed before us in a cut-and-dry form, cannot possibly allow us to make proper suggestions for the curtailment of expenses under any particular head.

"However, the observations that I have made with regard to the Bihar National College will, I hope, enable the Government and the Hon'ble the Director of Public Instruction of Bengal to realise the importance of the demand in making the distribution of the grants.

"*Patna Collegiate School.*—Sir, we were sadly disappointed to find an omission in the Financial Statement of an important and long expected item of expenditure for construction of a building for the Patna Collegiate School. Your Honour, and the Hon'ble the Director of Public Instruction of Bengal, are well aware that, since the detachment of the Patna Collegiate School from the Patna College under the new Regulations of the University, the school has been located in a rented house of the Hon'ble Mr. Justice Sharfuddin. It is the residential house of the owner, and it was never built with the idea of converting it into school premises. Though the house is sufficiently large for residential purposes, yet it is insufficient to accommodate any educational institution, where hostel and playground are necessary to form part of the same.

"Last year, questions were put in the Council with a view to ascertain the prospect of any permanent and suitable accommodation. At the time of the final discussion of the Budget, I had the honour to invite the attention of Your Honour's Government and this Council on the subject, and though I had the fullest hope that in the present Budget due provision would be made, but, to the utter misfortune of Bihar, we have yet to wait. . . .

[*Mr. Saiyid Wasi Ahmad.*]

"Sir, I was hitherto under the impression that some scheme was prepared in the time of Sir Andrew Fraser, our late Lieutenant-Governor, for acquisition of some land to the east of the Patna College, and that the land was to be utilised for the construction of the premises for the Patna Collegiate School with hostel and playground attached. The acquisition was to serve two-fold purposes—one to give a permanent habitation to the school, and the other to get rid of the densely populated and dirty quarter from the vicinity of the College hostel already existing, and thus to remove not only the needs of the students of the school, but also to make the College hostels healthier. But the answer given to the question put by the Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan at the last meeting of this Council, indicates that no site has yet been definitely selected for the location of the school.

"Sir, being the Secretary of the Patna Collegiate School Committee, I think I am in a better position to inform Your Honour's Government how urgent and necessary it is to provide a suitable accommodation for the school. The present rented house is no longer sufficient to accommodate all the students desiring to enjoy the hostel accommodation.

"We are indeed very much grateful to the Government of India for giving us a munificient grant of 12 lakhs of rupees to be spent on the head of Education. A Committee of official and non-official Members is to be formed for the purpose of determining how this money has to be spent. Will it be too much to ask that the claim of the Patna Collegiate School should be satisfied out of a portion of the money at the disposal of the Committee. Having regard to the importance of the demand, I have no reason to doubt that the claim of the school will commend itself to Your Honour's Government and the Members of the Committee.

"*Tirhut College.*—I think, I may be failing in my duty if I do not advocate the cause of the Bhumiar Brahman College at Muzaffarpur. The necessities, and the present condition of that College, were fully explained and thoroughly dealt with by the Hon'ble Babu Braja Kishor Prasad in his speech delivered in connection with certain items of the budget, and it is needless to repeat them here. There can be no two opinions that the College at Muzaffarpur needs, to a large extent, help from Your Honour's Government. However, it has given great satisfaction that the Hon'ble the Director of Public Instruction and Your Honour's Government are ready and willing to accord fullest consideration to the representations of the College authorities. We hope that in the near future the College will be relieved of the difficulties by the extension of the liberal help of Your Honour's Government.

"*Courts of Law.*—No doubt it is a sad thing to find a tremendously large sum of money budgeted for expenses in Political cases. I do not deny the necessity of such an expense, and for that my own countrymen are to blame. I should have expected the application of such a large sum of money on the head of Education. I sincerely hope that the situation will soon change, that political crimes will fade away and that there will be no occasion to find such sums budgeted in the next year."

The Hon'ble MR. SAIYID WASI AHMAD said:—

"Sir,—'The enlargement of the Legislative Councils and the extension of their functions to the discussions of administrative questions are the widest, most deep-reaching and most substantial features of the scheme which we now put forward.' Upon such pronouncement, emanating as it did from the highest authority in the land, great were the expectations of the elected Members of this enlarged Council. And the different electorates watched with keen eyes and the most attentive minds as to what their representatives were going to do. Apart from other rights and privileges, so graciously conceded to the non-official Members, the greatest and the most cherished one is the right of taking part in the framing of our annual Budgets. The appointment of a Finance Committee each year under the present rules, in which no less than six Members are elected by non-official Members,

[*Mr. Sayid Wasi Ahmad.*]

was considered to be a great privilege. And it was for this reason that Your Honour's attention was particularly drawn, soon after the election of the Members of the Finance Committee, as also during the Budget debates last year, to the fact that no Member from Bihar could be elected under the rules then existing. And we are grateful to Your Honour for giving due consideration to our representations and revising the rules for election of Members of the Finance Committee. Last year, Sir, on account of shortness of time and the most hurried way in which the Budget was placed before the Council for discussion, many non-official Members felt dissatisfied and even aggrieved, if I may be permitted to say so, for not having been able to move any resolution, and thus to fulfil the expectations of their different constituencies The scheme was, however, new and elaborate, and Your Honour had so much to do in launching the first assembly of its kind that we all had to content ourselves with better luck next time.

"This year, Sir, we started with changed rules for the election of non-official Members of the Finance Committee, and with two Bihari Members elected in the Committee we naturally had great expectations. Under rule 7, clause (2), this Committee should have begun its sittings not later than the 20th of January and completed them not later than the 28th of the same month, and under rule 8 the Members should have submitted their report not later than the 28th of January. But we find this Committee sat for the first and perhaps for the last time on the 6th of March. I don't know how far this was legal, and whether the members of the Committee were not *functi officio* on the 6th of March. Apart from the legal question which I crave leave to bring most prominently before Your Honour, the most unfortunate part of it was that the Members could hardly do anything in the Committee, and if I mistake not, they only sat for deliberation for about 45 minutes. Again, after passing through that stage of the Budget, the same difficulty arose when the Members were asked to send in their resolutions, if any, viz., they hardly got sufficient time to study the Budget in order to frame their suggestions in the shape of resolutions. My object in bringing this forward is that, whatever may be the cause or causes for such unfortunate relaxation of rules and shortness of time allowed to us to send in our resolutions, I trust Your Honour will do something to remedy this grievance of the non-official Members in future.

"It is a matter of sincere satisfaction to us all to see marked improvement under heads 'Education' and 'Sanitation' Education is the crying need of Bihar. And, if I had not the fear of over proving a point, I should have liked to deal with this most important question in detail. But by now all our grievances in this connection have, I venture to think, already been placed before Your Honour, and I invite your particular attention, Sir, towards the improvement of private colleges and schools in Bihar. I also venture to suggest that much has to be done for the *maktab* education of the Muhammadan boys in Bihar. As to the sanitary improvements, I would specially draw Your Honour's attention to the district of Purnea, where the ravages of malaria are well known, and the most unhealthy and insanitary conditions of Patna City. The question of water-supply to the town of Bhagalpur has on several occasions been brought to Your Honour's notice, and unless the Government comes forward with a substantial help, it will be difficult for the people of Bhagalpur to successfully combat with the present situation.

"It is already known to Your Honour that ever since the river Ganges has changed its course and shifted further south of the water-works, it has been engaging the most serious attention of the Bhagalpur Municipality. We are grateful to Your Honour's Government for giving substantial help from time to time in this connection. I may mention here that, whereas we realize a sum of Rs. 40,675 on account of water-rate, including the District Board contribution of Rs. 5,000 we actually have to spend Rs. 52,769, because of the recession of the river. Naturally, therefore, we are in great financial difficulties on account of our water-works, and I trust Your Honour will be able to save us from the present perilous situation.

[*The President; Khan Bahadur Maulvi Sarfaraz Husain Khan.*]

"I have mentioned the needs of the district of Purnea, the city of Patn and the Bhagalpur Water-works in the hope that their respective clair may be favourably considered by Your Honour's Government when tl allotments under 'Sanitation' are made for various purposes.

"I cannot help, even at this stage of the discussion, drawing You Honour's attention to the grievances of the members of the Provincial Servic both Judicial and Executive. In the last year's Budget discussions m hon'ble friend, Babu Braja Kishor Prashad, and some other Hon'ble Membe of this Council advocated the cause of these two services. There wer subsequent discussions on the subject in August last, and we entertain sanguin hopes that we shall hear in the near future of the improvements in the pa and status of these deserving officers.

"I must also place my emphatic protest against the large expenditure unde heads 'Law and Justice—Courts of Law'—particularly against fees to Counse in connection with the trial of political cases. The other day the Hon'bl Mr. Chapman drew our attention to the immense difficulties the Governmen have to face in getting the services of lawyers in such cases, and I quite appreciate that such difficulties may occasionally arise; but if the Governmen always and in every case encounters such difficulties, something ought to b done to overcome them. A few experienced and capable lawyers, fo instance, may be retained to conduct Crown cases on a monthly salary, a Government advocates, and this course, I venture to submit, may to a very large extent obviate the difficulties and reduce the expenditure under this head.

"I am not pleased to find a reduction of Rs. 39,000 in the grants to Commissioners and Heads of Departments for minor works. From personal experience of mufassal life I am convinced that it is absolutely necessary to allow the Commissioner a sum of fully one lakh, if not more, for speedy and prompt help in urgent needs and requirements of the people in their respective divisions. The amount under this head has, however, been curtailed under extraordinary circumstances this year, and I hope it will not be so in the next year.

"With these few observations I beg to support the Budget."

The President:—"As the Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan's speech has been circulated to all Members, I would propose that it be taken as read."

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan said:—"With Your Honour's permission I would add only a few words at the beginning of my speech. In his speech to-day my hon'ble colleague, Mr. Syed Wasi Ahmad, has referred to the question of the necessity of supplying filtered water to the Patna Municipality for drinking purposes. As Vice-Chairman of the Municipality, I bear testimony to the fact that the Municipality badly needs a filtered water-supply. It is a very old city, and as such needs sanitary improvements in various ways. But the supply of filtered water to it will be regarded as an improvement of the greatest value, highly calculated to improve the general health of the people, and reduce the death-rate consequent on the breaking of epidemics from time to time. Sir, the Government came to the assistance of the Patna Municipal Commissioners when, years ago, they needed a drainage scheme. Government also extended it is helping hands to them when they wanted to instal a flushing scheme. A short time ago, Government has been pleased to give the Municipality a grant of Rs. 50,000. The Sanitary Engineer of Bengal is now of opinion that at about double the cost of the present estimated cost, he can supply the Patna Municipality with the water for flushing, as well as filtered water for drinking purposes. Thus, I may take the liberty of drawing the attention of His Honour in this Council to the question, and ask His Honour to take the case into his favourable consideration at the time of the distribution of the expenditure of the grant which the Government of India has made to our Provincial Government for purposes of Education and Sanitation."

[*Khan Bahadur Maulvi Sarfaraz Husain Khan.*]

The following portion of the Hon'ble Member's speech having been circulated to all members of Council was taken as read :—

"Your Honour, I must first of all congratulate Your Honour's Government on the prosperity budget which has been presented to the Council. In spite of the great and ever-increasing demands on the Exchequer of the Government, allotments under the head Education have steadily increased year by year, so much so that in the year 1911-12 the allotment under this head amounts to Rs. 70,26,000. In 1906-07 the allotment was Rs. 38,50,749, in 1907-08 Rs. 45,52,592, in 1908-09 Rs. 55,28,726, in 1909-10 Rs. 55,68,813, in 1910-11 Rs. 59,17,000) which, according to the Revised Estimate, amounted to s. 55,5?,000) and in the current year, viz., 1911-12, Rs. 70,26,000. I should, however, have liked the allotment under the head Education, especially Primary Education, to have been much larger than what it is at present—the intellectual advancement of a country being the standard by which its prosperity is judged. The cause of primary education has been so ably, eloquently and forcibly urged by our distinguished countryman, the Hon'ble Mr. Gokhale, that it would be a mere waste of time and energy to dwell on it again, and now it is only our fervent hope that the time may soon come when Government may find itself in a position to materially advance its cause. Sir, it is also not without regret that I have to note in the budget a gradual increase of expenditure under the heads 'Law and Justice' and 'Police.' In the year 1906-07 the expenditure under these heads was Rs. 1,69,78,833, while in the current year's budget the estimate of expenditure amounts to Rs. 1,98,00,000, showing clearly that in five years the expenditure under the heads has increased by Rs. 28,21,167. What a real good would have been done to the province if this amount had been spent on Education? How much would it have tended to the material prosperity of the province if the amount had been spent on irrigation? Here I avail myself of the opportunity of drawing the attention of that section of my countrymen, howsoever small that section may be, who believe in anarchism and terrorism, to the fact that their action, so far from helping the cause of the country has tended to arrest the march of its social progress by causing public money that could have been spent on education to have been spent on matters which neither directly nor indirectly conduce to the well being of the people, as it was only because of their action that the Government has had to incur larger and increased expenditure on the Police and Court.

"Regarding the Province of Bihar, one of the divisions of which I have the honour to represent on behalf of Municipal Commissioners, I feel it my bounden duty to thank Government for the growing attention the Province is receiving at its hands. But at the same time I may be permitted to point out that the requirements of the Province have not yet been duly met, and, whatever may be the present difficulties of Government in meeting its wants, it is but fair to ask that expenditure on it be commensurate with its local needs and in proportion to its contribution to the revenues of the Province. Sir, the needs of Bihar have been brought before the Council by my hon'ble colleagues representing the different divisions and vested interests of Bihar, and by myself from time to time, and it will be needless for me to enumerate them here.

"At this time of the general discussion of the budget I do not think it will be desirable to enter into the discussion of any particular head or heads of expenditure. The time for that is past, and our present remarks can only have the effect of influencing the future.

"In connection with the discussion of the Financial Statement, all I need say is that the non-official members, as matters stand at present, have little or no effective voice in the distribution of expenditure. Last year I felt and was under the impression that the members of the Finance Committee had some real hand in the framing of the Budget or had some discretionary powers over expenditure, and it was therefore that the Bihar members felt relieved when two Biharis were elected as members of the Finance Committee of this year. But our illusion has been dispelled, and, from my experience of the

[*Babu Bal Krishna Sahay.*]

Finance Committee, I can say that unless some change is made in its procedure the non-official members will always remain at a disadvantage. As matters stand, the time at their disposal is too short to enable them to give due consideration to the matters placed before them for discussion. For instance, the memorandum circulated to the members of the Finance Committee says:—"The following note is now circulated to the members of the Finance Committee explaining in greater detail the proposals of the Local Government under the head of 'New works' under 45—Civil Works, in the charge of the Public Works Department. This is the only expenditure regarding the distribution of which it is at present possible to consult the Finance Committee. The sum to be spent upon new works in the Public Works Budget—Civil Works—stands at present at Rs. 5,96,600 and the Local Government recommends that the following works be undertaken for the reasons specified in each instance."

"The above memorandum was dated the 3rd March, and the Finance Committee was called on the 6th March, the inevitable result of which was that the members of the Finance Committee had little or no time to come to any right conclusion with regard to the urgency of the different projects laid before them or to make their own suggestions. Apart from this fact, when it is considered that, out of the current year's estimated expenditure of Rs. 6,71,48,000, the members of the Finance Committee had to be consulted on the expenditure of only Rs. 5,96,900 under circumstances when they had hardly time to give due consideration to the recommendations made to them, the non-official members cannot help feeling their relative helplessness in the matter of the distribution of the expenditure of the province of the Legislative Council of which they have the honour to be members."

The Hon'ble BABU BAL KRISHNA SAHAY said:—

"MAY it please your Honour, before making any observations on the Budget I may be excused for repeating an old complaint that sufficient time is not allowed to the Members to fully study and properly consider and discuss the Budget. Very little time is given them to propose resolutions, and the difficulty has this year been enhanced by the fact that proposals for the disposal of certain sums could not be framed, as conditions governing certain grants by the India Government were not made known early. Even the Finance Committee, for some reason or other, could not sit before the 6th of March, so, before moving resolutions, the Members could not know the views of the Finance Committee. Your Honour was pleased to express a similar view on the 14th of March last when Your Honour said:—'I wish to say that Government entirely appreciates the difficulties which the non-official Members evidently experience in indicating items under which reduction of expenditure can be made. That difficulty is not in any way the fault of the Hon'ble Members. It is due to the shortness of time which under the present system is inevitable.' Your Honour will therefore permit me to suggest that steps should be taken to remove these difficulties infuture. At least a fortnight should be allowed to study and frame resolutions. The rules, if necessary, should be amended accordingly. Your Honour's words that 'we are going to consider in the course of the year whether it is not possible to devise some means under which Hon'ble Members will have greater facilities at their disposal for the purpose of picking out items in which reductions are possible,' are very encouraging, and I hope, Sir, that this complaint will be soon removed.

"Now, Sir, let me congratulate the Hon'ble the Finance Member for the elaborate and lucid Budget which he has presented to us. I can very well realise the difficulties experienced by one who is pressed for money from various sides and has to see that no important work suffers. People look at things from different points of view, and this enhances the difficulty of the distributor. On the whole, our present Budget shows a careful and fair allotment.

"To go into details, it is highly satisfactory that the closing balance again shows an improvement, and it is hoped that in future it will

[*Babu Bal Krishna Sahay.*]

steadily increase. It is really a matter of great regret, nay unfortunate, that anarchism has not yet died out in the country, as it was once believed to have done. It is merely fanatical to suppose that, by stealthily killing a few men here and there, any good can be secured. It is certainly not vicious deeds but pious acts that bring happiness; and what is true for an individual is true for a nation. The so-called nationalists are doing great mischief to the cause of progress and advance. We can progress only when there is peace and order in the land and never during tumults and bloodshed. God is love, and so it is irreligious to be devoid of that great attribute of God. It is very astonishing how any one thinks himself justified in taking away the life which he cannot give, and that in the name of nationality, as if for every nation there was a separate God and a separate Father. Had it not been for this anarchism, we would not have found a big jump in the Provincial expenditure upon law charges, from 2 lakhs and odd in 1907-08 to Rs. 7,90,572 in 1908-09, and though it showed a little decrease in 1909-10 (Rs. 6,27,358), it again rose up in 1910-11 to Rs. 9,70,000. A good deal of public time, energy and money are wasted over these unfortunate and, I may say, calamitous occurrences. Government are showing great favour and leniency, but the rash youths, decidedly backed by some mischievous heads, are still bent on going wrong to the country. Our present Viceroy has shewn great wisdom and statesmanship in connection with the extension of the Seditious Meetings Act. Let us hope that the heads of these lunatics, self-styled friends of India, will cool down and return to a normal state.

"*Education.*—The Imperial grant has very much strengthened Your Honour's hands and bettered our financial situation. We are sincerely grateful to His Excellency the Viceroy for this help in a very right and needed direction. This will, I hope, remove from the mind of the Hon'ble the Director of Public Instruction the fear of inundation. This will enable us to remove the long felt want of having hostels in all centres of education, and especially in Calcutta, where some arrangement for Bihari boys, also, will not be lost sight of. I hope Ranchi will not be neglected, where, as I said the other day, there is a great need of a hostel for the non-Christian *Kol* boys.

"On the subject of hostels, I had a talk with Mr. Tipping, our popular and energetic Headmaster of the Ranchi Zilla School. He takes a keen interest in the welfare of the boys. He said that a hostel near the zilla school was very badly needed. I understand that a hostel site for the zamindars' boys has already been selected, and an estimate made. As for the *Kol* boys there are about 55 non-Christians in charge of the Uraon-Munda-Siksha Sabha, and the President of the *sabha* informed me that 15 boys are reading in the Ranchi Zilla School from 3rd to 7th class, 5 in the G. E. L. High School, 4 in the Industrial School and the rest in the Middle Vernacular, Upper Primary and Lower Primary schools. These boys come from different thanas in the district and have no schools near their homes. I beg leave to submit that this *sabha* deserves encouragement at the hands of Government. The old bungalow, which was previously occupied by the Headmasters, might, with some additions and alterations, be used with advantage as a general hostel.

"There is yet another point in connection with education. The Ranchi S. P. G. Mission School had to build a new house, as the number of boys in the school had very much increased, and the Revd. Canon Cosgrave, the Principal of the School, told me the other day that the mission built the new house under the hope that the Government would, under the circumstances of their case, help them, and I beg leave to draw the attention of the Hon'ble the Director of Public Instruction to this, with the request that he will be pleased to see that these gentlemen, who are really doing good work in the district, are not disappointed, especially in view of the fact that out of 450 boys in the school they are imparting education to 110 non-Christian boys.

"I would once again, Sir, as I did last year, impress the necessity of giving some moral lessons to the school boys and making some arrangement

for the same. I hope gentlemen will not be found wanting who would most willingly undertake the task.

"While mentioning with great pleasure that two new Hindi girls' schools have been started in Ranchi, one by the local Marwaris, and the other by some Bihar gentlemen, I regret to say that they keenly feel the necessity of good female teachers. There is a well-managed Kanya Maha Vidyalaya at Jullunder, and, in my humble opinion, arrangements should be made to send some elderly widows to be trained there who might be utilised as teachers for our schools in the province; and in order to induce such women to go and be trained there, a few Government scholarships ought to be created. I beg to draw the attention of the Hon'ble the Director of Public Instruction in this behalf.

"It is indeed very satisfactory to note that the case of the ill-paid School Sub-Inspectors has been favourably considered and provision made for regrading their pay.

"*Excise.*—I regret I did not make myself clear last year when I spoke on Excise income. I never meant to say that Excise revenue should be abolished. Looked at from the Government point of view, I understand the imposition of Excise revenue is intended to check the indiscriminate consumption of liquor.
V I quite understand that, if the Excise Act were to be repealed, many would begin making liquors in their own houses, and the vice would increase, particularly among rich people; but, Sir, I believe I am correct when I say that it is the poorer class of men who consume country liquor the most indiscriminately. The country is being very much impoverished by its use—not only is money thrown into the water, but our very blood is being turned into water.

"We find in the Budget that there has been what is described as a 'noticeable improvement on the receipt side (Rs. 2,74,000) under Excise,' and it is admitted 'that the increase in the revised is due to better settlement and *increased consumption.*' What I wanted to suggest was that our good Government should devise means to stop this 'increased consumption.' I may not be again misunderstood to say that I lay the blame at the door of Government. It is decidedly the fault of the people, the consumers. But, Sir, has not Providence placed those people under the care and guidance of the British Government, and the Government, as protector of the people, should devise means and take measures to see that we may have opportunities to find a fall in the Excise income, and to find a note 'due to decreased consumption' appended?

"*Roads in Chota Nagpur.*—I crave leave to draw Your Honour's attention to the fact that Chota Nagpur District Boards have not funds enough to keep up the extensive roads under them, far less to make new roads which are very badly required in many parts of the Division. Many projects have been abandoned or put off for want of funds. A good Ranchi-Khunti road is a crying necessity. Its extension to Chundit is another want. This is only an instance. There are many parts of the Division which have not been opened out by roads. I therefore pray that Your Honour will be pleased to put in the hands of the Commissioner of Chota Nagpur such amount as Your Honour can conveniently spare.

"*Sanitary.*—Both Imperial and Provincial Governments have always in view this important head, and we are grateful for the actions that are from time to time taken towards sanitary improvements. We have this year been fortunate to get a large grant from the Imperial Government. I ask leave to suggest that, bad drinking water being the root of most of the diseases, steps should be taken to empower the District Boards to reserve tanks in villages for drinking purposes only, and to prohibit by beat of drum or otherwise, bathing, washing clothes, cattle, etc., under pain of prosecution. I have inquired into the matter, and zamindars will be found who will very gladly place a tank or two, for the purpose, under the control of District Boards. I am afraid there
11 is no such provision in the Local Self-Government Act, and, if so advised, the law might be amended. I hope this will go a great way in stopping epidemics. Out of this grant some money should be given to the Chota Nagpur District Boards, especially Ranchi, to meet the necessary expenses in connection with

[*Sir Bijay Chand Mahtab, Maharajadhiraja Bahadur of Burdwan; Babu Bhupendra Nath Basu.*]

the above as also to make *pucca* some of the *daris* (springs) in the interior, under similar conditions and prohibitions.

"*Coronation Durbar.*—The most welcome item is the expenditure of three lakhs for the Coronation Durbar to be held on the 12th of December, 1911. All India rejoices at the news of the Royal visit and is longing to see the 12th of December. *Raj darshan* is considered by the Hindus to be a pious deed, and I feel sure this Royal visit will go a great way in bridging the gulf and uniting the ruler and ruled more closely."

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadur of Burdwan, said:—

"Your Honour,—I only wish to make a few observations, for some of my hon'ble colleagues have already exhausted many of the matters that I wanted to bring forward in connection with the provisions of the Budget. First of all, I must, of course, join in the chorus of congratulations and congratulate my hon'ble friend Mr. Wheeler on the prosperity budget, and I must congratulate the Government of Bengal on the new arrangement that has been arrived at between the Imperial and Provincial Governments. I hail with pleasure the large grants that have been made this year under the heads 'Education' and 'Sanitation.' But, in connection with the grants made under the head 'Education', I wish to draw the attention of Government to the absolute necessity of starting model public schools in the province. I am glad my hon'ble friend Babu Bal Krishna Sahay has drawn the attention of the Government regarding the hostel to be attached to the zilla school at Ranchi. As I hope to approach the Government before long about a crystallised scheme for hostels for the well-to-do classes at Ranchi, I shall not go into the matter at present; but I may just impress on my hon'ble friend Mr. Küchler the needs of these model public schools and of making a start by putting the Ranchi Zilla School on such a footing. These hostels that we propose, and regarding which we hope to approach Your Honour's Government before long, will, I am sure, be largely resorted to by the sons of the well-to-do classes. By the phrase "well-to-do" I do not mean simply the zamindars' sons, because, no doubt, the zamindars fall under that category, but also the wealthy members of the different sections of the professional classes and of the educated middle classes. Now, while on this point, I may say that it would be a gracious act on the part of the Government, as the Ranchi College scheme has, for want of funds, been shelved for the time being, to consider very carefully this proposal when it comes before the Government through the proper channel.

"As regards the grants under head 'Sanitation' difficulty has been felt in the inadequate number of crystallised schemes being brought before the Government. Often the complaint is that there are not enough schemes to spend this money upon. But I think that if the Government officials who are entrusted with the expenditure of this amount, were to consult more mufassal Members than town Members regarding the ways these amounts should be spent, I am sure many suggestions would come forward, and many schemes could be definitely shaped. I have nothing else to add but to thank Your Honour and more particularly the Hon'ble Mr. Wheeler for putting into the budget the very small sum (Rs. 5,000) for the medical officer's quarters for the Fraser Hospital at Burdwan. In this hospital scheme I have taken a very great interest, and, on behalf of the Raj, have spent a considerable amount of money, and I am therefore anxious to see the whole scheme completed, which the small grant will help to do. In conclusion, I wish the province all prosperity, during the current year, specially in view of the Royal visit, and now I beg to support the budget before us."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Your Honour, I feel as a Member of this Council, and as one in particular not holding a very convenient seat in this Council, that I may be permitted to bring to Your Honour's notice the great unsuitability of this hall for the purpose of a Council chamber. I realize that when the reforms scheme was

inaugurated we had not then any chamber ready at hand; but at the same time Your Honour will have, I have no doubt, some consideration for the strained voices of those who have to address this assembly from its extreme end, and, at the same time, to bear in mind the thread of the argument which they have got to follow. It may be difficult, Sir, in the life-time of the present Council, to have a suitable chamber for its accommodation There was an observation recently made in another place that the Supreme Government was going to have a Council chamber of its own. Whether they will give us a place in that Council chamber is a matter of which I am absolutely ignorant, but, in the meantime, I think that we, the Members of Your Honour's Council, have a legitimate grievance that we are not housed in more suitable quarters. I do not know whether it would be possible to convert the old Council chamber with the corridor into a place which will accommodate the present number of members, if that chamber were so altered as to bring within its compass 50 or 60 men who would be able to make themselves heard at least by each other. There is another difficulty, and that difficulty is very great. When we are addressing this Council, we have not got at our disposal books of reference, and a debate in which books of reference cannot be looked up for the purpose of meeting an argument or laying down some proposition—a debate like that is shorn of much of its usefulness. I may instance that only the other day, when my hon'ble friend, Mr. Bompas, was delivering a long tirade upon the woes of the people of the Sonthal Parganas, and ascribed imaginary reasons for that state of affairs, we were unable to refer to any authorities which would controvert or corroborate the proposition which my friend was laying down with a great deal of authority. We felt, Sir, like some of those wooden images, which villagers hew out of rotten timber in times of calamity, and before whom they pour out all their invectives against an offending divinity, and the poor image sits there still unable to answer and swallowing all the abuses that are hurled against it. Our fate is very much the same as that of the wooden images of our village folk. Therefore, Sir, apart from the unsuitability of this Council chamber, the want of a good library with books of reference near at hand is very keenly felt by those who desire to refer to books and other documents for the purpose of conducting a debate with some degree of real interest in it.

"Sir, from the Council chamber by a very natural and easy descent, I come to the consideration of our jails in this Province Last year, Sir, I ventured to submit to Your Honour some matters in connection with the administration of jails. This year also I have to bring to the notice of the Council a rather startling fact, that, whereas the general death-rate of the Province was about 24 per mille, there was in the jails of Hazaribagh a death-rate of 71·5 per mille, though Hazaribagh is well known to be a health resort in Bengal. This is a matter which requires very careful consideration, and the Sanitary Commissioner, while allowing that probably contaminated sources of water-supply were responsible for this state of affairs, has not indicated the causes which led to this extraordinary mortality. Apart from this heavy death-rate in the Hazaribagh Jail, the death-rate throughout our jails was rather high last year. Then, Sir, there is one very curious observation in our Administration Report on Bengal Jails—that amongst the jail population those who are able to read and write are about 8·42 *per cent.*, but those who are able to read only are 1·74 *per cent* That is a result which clearly shows that there must be some error in recording this percentage of literacy in our jail population, for common experience tells us that those who are able to read and write are much fewer in number than those who can only read.

"From jails, Sir, I pass on very naturally to political offenders. At the present moment I am not concerned with them, but with the money which they have cost us in their trial during the last year and this. We notice with satisfaction a change in the policy of Government, as regards the method by which this class of offenders should be dealt with. But, apart from the clemency which has been shown to them in a recent case referred to on this occasion by my friend, the Hon'ble Rai Baikuntha Nath Sen Bahadur, we, as mere outsiders, may say without impertinence that, if we dealt with this class

of men as ordinary offenders, *i.e.*, get hold of a dacoit and try him as such, instead of setting him up on a high pedestal of waging war against the King-Emperor and of being a member of a large conspiracy to subvert British rule, we should be able to deal with these people much more summarily and with much less expenditure, and the result would not attract attention and notoriety and the punishment that these men would get as ordinary offenders would have a very wholesome effect. Most of my friends who have spoken have dwelt on the very large expenditure which this class of offenders has cost us. Last year we budgeted about a lakh and-a-half for dealing with those criminals, and we spent 7½ lakhs, and I think the Government owed some fees at the end of the year to many eminent lawyers whom it engaged during the trial of these offences. I hope a saner view will be taken of the situation in the prosecution of these cases in future.

"From political offences, some of which at least have been ascribed in certain quarters to the impetus of western education that has prevailed in our country for the last 50 years, I pass on to the subject of education. I would not encroach upon the province of my hon'ble friend to my right who has dealt so ably with this subject, but there is one aspect of the question with which I believe he has not dealt this morning—I am not sure, I plead guilty of having come here a little late——I see my hon'ble friend Mr. Küchler sitting opposite to me smiling. I believe I am right in saying that last year we made a provision of 2½ lakhs for female education throughout the province. I am taking the figures roughly; that I submit is a very inadequate provision for female education in Bengal, Bihar and Orissa, and much is to be done in respect of female education in this country. I recognize the difficulties amongst us, Hindus, whose girls have to be married below a certain age; the question of imparting sound education to our girls is a matter of very great difficulty. The difficulty does not apply in the case of our Muhammadan fellow subjects. They are much better off so far as opportunities of imparting a sounder education to their women are concerned than we are, because they are not hampered by the rules of early marriage with which we are hampered, and I am glad to find that our Muhammadan brethren are trying to seek to further the cause of female education amongst themselves. In Calcutta we have got only one Government school, and I believe no primary schools for girls are maintained by Government. The one Government school I am referring to, the Bethune School of Calcutta for female students, would hardly be considered adequate even for the small children who go to the school department there to receive their education. We have no doubt indigenous schools in Calcutta such as the Mahakali Pathsala. But I would respectfully urge upon the attention of the Government the desirability of having two or three other schools in Calcutta for the primary education of our girls. Then leaving the school department, I come to the college department of the Bethune institution. I would remind my friend the Hon'ble Mr. Küchler that in the Bethune College the only branch of science in which instruction is imparted is Botany, and girls who want to take up other branches of science in the Intermediate (Science) and B. Sc. Examinations vainly knock their heads against the portals of the Presidency College, because the Bethune College does not provide for any course of instruction in other subjects. In private colleges in Calcutta, the state of things as regards arrangements and accommodation is not so good as in the Presidency College itself. If accommodation cannot be provided in the Bethune College for the education of girls in science, now that the University has opened its gates to girls as well as boys, and if girls are willing to enter it on its own terms, I would appeal to Your Honour that some suitable provision be made for accommodating girl students in the Presidency College, where they seek to take up scientific subjects in the Intermediate and B. A. Examinations.

"There is one matter to which my friend the Hon'ble Maharajadhiraja Bahadur of Burdwan has referred. That is the hostel scheme at Ranchi. We were very sorry, Sir, that the Ranchi scheme had to be given up owing to financial pressure. We do not press for the reconsideration of that scheme at the present moment. If the Ranchi school is made into a high school

[*The President; Babu Bhupendra Nath Basu; Maharaja Sir Prodyot Kumar Tagore, Kt.*

under European supervision with a good hostel, it would be conferring a benefit upon the whole province for there is a considerable amount of difficulty in the education of our boys of the upper classes or even of the middle classes in Calcutta under proper conditions.

"There is one matter to which I wish to refer, and I have done, that is the question of sanitation in Bengal. I am not going over the old story of the enormous ravages done by malaria for it accounts for 68·41 *per cent.* of the total death-rate of the province, but it is high time that there should be something done to control the channels of our navigable rivers. There has been a proposal from the Bengal National Chamber of Commerce, and no sounder and wiser proposal has been made. If the Government take up that proposal earnestly and institute an inquiry into the conditions of our navigable rivers in Bengal, and if, later on, we could constitute a Board which, I believe, would have a fair income from the navigation of these rivers, a great deal of good, both as regards commerce and health of the people, would be done to my Province."

THE PRESIDENT said:—

"I am afraid the Hon'ble Member has exceeded the time-limit."

The Hon'ble BABU BHUPENDRA NATH BASU, said:—

"Sir, I have practically finished what I intended to say. I crave Your Honour's leave to refer to the Royal visit to India. There has been very naturally a great deal of interest aroused on account of this visit. Many people were keen and anxious that the Coronation should take place in the Metropolis of India, and as that has been found impossible, you will give effect to the legitimate wishes of my countrymen by allowing their representatives to witness the great ceremony that will be held at Delhi in honour of one of the greatest of the monarchs of the world."

The Hon'ble Maharaja SIR PRODYOT KUMAR TAGORE, KT., said:—

"Your Honour,—I beg to congratulate the Hon'ble Member in charge of the portfolio of Finance upon the very satisfactory statement which he has been fortunate enough to be able to present regarding the financial position of the Province. Last year, I rather welcomed the slight decrease in the receipts under Excise, as indicating a decline in the consumption of intoxicants. But, in the revised estimate for the current year, I notice an increase of Rs. 2,74,000 which is explained as being due, at any rate partially to the 'increased consumption of country spirits' which is, in itself, not a very desirable thing, though it may be a sign of returning prosperity. The increase in the receipts under Courts of Law, however slight, which is ascribed to larger receipts from Magisterial fines, is another unpleasant feature, which may be due, either to increased lawlessness, or to increased activity in repressing lawlessness. On the other hand, the falling off of the revenue under the head of Registration may be regarded as a sign of general prosperity among the agricultural population, upon which the country may well be congratulated. The Revised Estimate shows a decrease of nearly rupees twenty-five lakhs on the expenditure side, of which a sum of nearly rupees seven lakhs has been due to the fall in the prices of food-grains, and it is to be devoutly hoped that it will be some time before the Government again find themselves under the painful necessity of providing for Grain Compensation Allowances. Last year, I ventured to express a hope that the item—and a by no means inconsiderable one—of law charges in connection with political cases, would soon disappear from our budget. To the misfortune and incalculable mischief of the country, that hope remains unrealized to this day. Therefore, I welcome, all the more readily, the provision in the budget for the coming year of a substantial subsidy to a new vernacular newspaper, which is about to make its appearance, the policy of which will be to vindicate the Government before the people. The wonder is that such a thing should not have been attempted long ago. In a country where the party system, which provides each party with it own organs, is unknown, and

[*Rai Sita Nath Ray Bahadur.*]

where the indigenous press has rightly or wrongly educated itself into the belief that it is its sole and bounden duty to play the 'rôle' of His Majesty's Opposition in season and out of season, the utility of a Government organ which is guaranteed an extensive circulation among the rural population, must be patent to every unprejudiced mind. I do not for a moment assert or expect that, by means of this journal alone, the Government will be able to suppress the anarchist movement either quickly or completely, but it is at any rate a rational step in the right direction, and Government have a right to select their own weapons. The word subsidy has, I admit, rather bad associations. But is there any country where the Press is not subsidised in one shape or another? What are the Government subscriptions and Government advertisements but subsidy in an indirect form? If the arrangement with Rai Narendra Nath Sen Bahadur is objected to on the ground of expense, then all I can say is that those who have been the loudest in its condemnation have so far done very little to check the prevalence of political crime, which has been costing the province so many lakhs of rupees year after year on account of law charges.

"Besides, the arrangement with the Rai Bahadur is in the nature of an experiment, and may be discontinued, if the object aimed at is not gained. I am aware that there are people who have been propounding all sorts of conundrums as to how the new paper will steer clear of the *Scylla* of religious controversy or the *Charybdis* of this, that, or the other thing. To all such I can only repeat the famous formula of the Prime Minister—"wait and see."

"I welcome the provision in the Budget for 1911-12 for the reorganization of a long list of public offices, which will benefit hundreds of hard-worked public servants. The increased allotments on Education and Sanitation afford gratifying evidence of the sincerity of the Government in promoting those useful objects, and will be welcomed with gratitude by the people. I am however, inclined to think that the provision of a sum of only rupees three lakhs for the Coronation Durbar at Delhi may prove inadequate, and will have to be supplemented, the occasion being unique and unprecedented, not merely in India, but I may perhaps say, in the annals of the world. The smallness of this provision, however, throws an instructive sidelight upon the rigidity of the economic conscience of Government.

"Your Honour, I take this opportunity of congratulating Your Honour's Government upon the selection of the Hon'ble Rai Kisori Lal Goswami Bahadur as the Indian Member of the Provincial Executive Council. We, zamindars, are all proud of him as one of our brightest ornaments, and from what we know of his education, ability and experience of public affairs, we are confident that he will be able to discharge his duties with credit to himself and benefit to the country, so that when the curtain is rung down upon his official career, he will be able to leave the stage, like a well-graced actor, amid the plaudits of his fellow-countrymen."

The Hon'ble Rai Sitanath Ray Bahadur said:—

"Your Honour,—I am glad that the Hon'ble Babu Bhupendra Nath Basu has spoken a few words for the improvement of the waterways. As the only Member representing the Indian Commerce in this Council, it is my duty to strengthen his hands by adding my voice to his. Formerly, both in Bengal and in East Bengal, all kinds of merchandise used to be carried on by boats through rivers and canals. But since the introduction of railways, with the construction of bridges and culverts, these rivers and canals have silted up, with the result that goods traffic cannot now-a-days be safely conducted by means of boats through the rivers, which have dried up, and that all goods have to be transported by railways at much higher costs. In all European countries their respective Governments do not hesitate to spend large sums of money for keeping waterways open throughout the year and for maintaining them in their proper order. There waterways are allowed to exist side by side with railways, but in India the impression is that there exists a feeling of jealousy towards river traffic. It is alleged to be the policy of the Government, at least of the Railway administration, that no money should be spent

for the improvement of the waterways, lest they should draw away the traffic from the railway and thereby interfere with receipts from railway. The Hon'ble Mr. Stevenson-Moore, when District Magistrate of the 24-Parganas, formulated a big scheme for the canalization of the Tolly's Nala and its connection with the Madaripur *bhsel* route. In reply to some of my questions put last year, Your Honour's Government was pleased to observe that the matter was before the Government of India, but that the Government of India was not prepared to undertake the scheme until it could be shown that the receipts from the canal would be enough to maintain the same. This is, to say the least, taking a too narrow view of a noble scheme. I, however, do not look at it in that light. Sir, it is the duty of the Government to do all it can to facilitate the traffic of the country. It now takes several days for steamers—even then it is unsafe—to go in a roundabout way through the Sundarbans and a part of the Bay to East Bengal; that is why the Bengal Chamber of Commerce pressed it upon the Government to take up in right earnest the scheme of canalizing the Tolly's Nala. Apart from that big scheme, I beg to refer to another grievance regarding the Tolly's Nala: while more than five lakhs of rupees are realised every year from tollage, nothing has yet been done for keeping open the Tolly's Nala, with the result that the Chetla merchants have to carry their goods by carts from a very long distance and to pay very heavily for it, instead of having their goods brought to their doors by boats. I specially beg to draw the attention of the Government to the fact that since five lakhs of rupees are realised yearly from the tollage on boats, I submit it is the duty of the Government to do something towards the improvement of the Tolly's Nala.

"Next, with regard to the very generous grant made by the Government of India, and the allotments of that grant to different Municipalities made by Your Honour's Government, I beg to say a few words. It is very well to be complemented upon and to receive congratulations for the improvement of the water-supply in towns. But I regret to find that no allotment has been made from the above grant for the improvement of the water supply in the rural areas. It is the rural population who suffer most from the dearth of good drinking-water and they suffer silently. What the poorer classes drink in the interior is nothing better than diluted sewage, and it is the use of dirty water which is the root-cause of all the epidemic diseases in the mufassil, from which thousands and thousands of people die every year without a drop of medicine to mitigate their sufferings. I myself have seen men and women travelling three or four miles to draw drinking-water from the excavations by the side of railway lines. Government would have done well to see that a certain portion of that grant was allotted to improve the water-supply in rural areas. With these few words I beg to support the Budget, and to congratulate the Hon'ble Finance Member on the Prosperity Budget.

"I also beg to support the proposal of the Hon'ble Babu Bhupendra Nath Basu that a committee of experts should be appointed for the improvement of all waterways."

The Hon'ble MR. FILGATE said:—

"Your Honour,—Your Government and the Finance Member are to be heartily congratulated on the financial improvement of the Province as compared with 1909-10, 1910-11, and it is to be hoped we have entered on a cycle of favourable and good seasons, and there is every reason to anticipate that good harvests and revival of trade will not only benefit Bengal but the whole of India, and considerably increase the material prosperity of its people in the near future.

"The question of the growth of public expenditure is being constantly raised, but it seems to me that as the material prosperity of the people increases, expenditure is bound to rise in order to keep pace with and meet the increased demand for railways, canals, roads and bridging of the main rivers, let alone the pressing demands for education, sanitation and the improvement of the status of the members in all branches of the Government services.

[*Mr. Filgate.*]

"With reference to compulsory Primary Education and payment for the same by the State, we are constantly hearing reference made to the 'poor raiyat,' one who lives from hand to mouth, etc. Speaking for North Bihar, this is not the case, and the British farmer cannot possibly secure the returns per acre in £ *s d*. that is being obtained by many Bihar cultivators from such special crops as tobacco, sugar-cane, and chillies. In the days of my youth I spent some years amongst the peasant proprietors of Normandy and Brittany, and I have no hesitation in stating that a large portion of the Bihar tenants to-day are freer from care for the 'morrow' than were those peasant proprietors at the period I refer to. Of course, we must at the same time remember that occasionally the Bihar raiyat has to face a famine year, or an abnormal flood, but here again the rest that is given to the soil in a year of drought by nature results in large returns when conditions again become normal, and in the case of a bad flood, although there is loss and hardship, it is only temporary, as the following returns from the *rabi* crop more than cover the loss of the *bhadoi*. Speaking for North Bihar, in spite of what those who are pressing for compulsory Primary Education say, the agricultural classes who would be mainly affected do not want it. The children from their earliest years help and assist in all farm operations. Buffaloes, cattle, goats, etc., are almost entirely herded by children of a school-going age, and is it right or reasonable that a boy or girl who from earliest dawn has spent the long hours of a hot Indian summer day in the fields or woods, on returning to their homely cottage in the gloaming at the close of a strenuous day, should be forced by law to attend a night school instead of seeking that well-earned rest that is not denied to the animals that draw the plough, the harrow or cart? The District Boards are doing their share. Reference to the last annual report and resolution on the working of the District Boards of Bengal will show that the Tirhut Division compares very favourably with the other divisions in the Province. If the agriculturist of North Bihar wishes his children to receive rudimentary education, and if one member of the family can read and check the rent-receipts, *parchas*, etc, it will satisfy him, and he can afford to pay the small fees of the village school. If those who really have the welfare of the Indian agriculturist at heart can devise some scheme by which the oil-cake, the bones of the animals, and the cowdung can be returned to the soil instead of the two former being exported and the latter burnt, they will do more for the cultivators of India and the generations yet unborn than any Act or law for compulsory Education is ever likely to do.

"With reference to rural sanitation, speaking for North Bihar again, a very great deal more can and should be done by the proprietors, large and small, and the villagers themselves by filling up unhealthy tanks and cesspools in the village, closing wells that have been condemned, raising the tops of wells and clearing jungle and other matter from the vicinity of the water-supply, and draining by means of a simple channel low-lying ground in the vicinity of the village. The Government, the Municipalities and the District Boards have, do, and are taking their fair share in the case of Drainage and Water-supply, but the people themselves, with few exceptions, are not doing all they can, and do not seem to recognise their responsibility in the matter. If they take their full share, then and not till then have they any just or reasonable grounds for asking for increased expenditure under this head, which would only mean, if sanctioned, cutting funds from other important and pressing wants. One pressing need of the Division is a residence for the Commissioner, and public opinion in North Bihar is unanimous in considering that a suitable and proper residence should be built as soon as possible. The new Division was established more than two and-a-half years ago, and a fine site has been acquired, but apparently from the answer given at the last meeting of this Council plans and estimates have not yet been submitted. In the amended draft Financial Statement, Bengal, 1911-12, a sum of Rs. 50,000 was budgeted for, and we fondly imagined that work would be started this year, but I was considerably disappointed to find that this amount had been cut out by order of the Government of India in the revised Financial Statement, which I only received on the morning of the 13th ultimo. Under the rules I was debarred from

moving a resolution, as I should most certainly have done so. It is the duty and essential that the employer, either State or private, should provide good and healthy house accommodation for their employés, and for the sake of the prestige of the Government a residence in keeping with the dignity of the office of the head of the Tirhut Division should be built without any further delay. In some of our Bihar stations houses have been acquired by Government, patched and added to, and some of them are not as comfortable residences to live in as they should be. I sincerely hope (although I do not advocate extravagant expenditure) that, when plans and estimates are drawn up and submitted, the mistake will not be made of cutting off a few feet either in the area or the height of the rooms, or verandahs, in order to save money, and that it will not be a case of 'a haporth of Tar;' and should Muzaffarpur have the honour and good fortune in the future to be visited by the head of the Bengal Government, the residence of the Commissioner should be such that the distinguished guest would suffer no discomfort or inconvenience, especially if such a visit were paid during the hot weather or rains. There is no getting over the fact in this country that a very great deal is thought of show, pomp and ceremony, and before the days of railways, motor-cars, etc., the progress of the Commissioner when on tour through his Division with his guard, string of horses, and carriages, etc., undoubtedly impressed the people, and it had one great advantage that it brought the ruler and the Ruled into closer touch than is possible now-a-days with the enormous increase of work and quicker means of travelling. I feel assured that the non-official Members of this Council will one and all agree with the North Bihar public that the official residence of the Tirhut Division should be taken in hand at as early a date as possible, and that the plan and design of the residence will be in keeping with the expansion and advance we hope to see Bihar make in the future. Several members of the Darbhanga District Board have brought to my notice a matter which it seems to me I am bound as their representative to draw attention to. Unfortunately this district has suffered from famine in three years:—

1896-97—	The Board paid	2·6	per cent of total cost.
1906-07—	Ditto	2·2	ditto.
1908-09—	Ditto	8·2	ditto.

"Had the Board been asked to pay on the same basis as 1896-97 and 1906-07, their share for 1908-09 would have been Rs. 28,299, or Rs 65,448 less than they have actually paid. I am fully aware of sections 60, 81 and 82 of the Bengal Famine Code, [1] and it is quite right and fair that for test-works, etc., the local funds should pay, but it is a matter for consideration where the line should be drawn where famine exists, but is not declared, and when relief has got beyond the resources of the Board. In order to carry on their operations in 1899, the Board had to take a loan of Rs. 1,50,000, in 1908, another loan of Rs. 50,000, both of which are being repaid; and recently the Board has been forced to apply for another loan of Rs. 90,000. When the loans are being adjusted and repaid, I hope Your Honour's Government will consider the case, and if it is not possible to allow credit for Rs. 65,448, at least to give credit for Rs. 19,000, as this sum was remitted by the Collector to the ghat contractors as famine-relief, especially as the income from ferries is given to the District Board for their educational allotment, but no reduction whatsoever has been made under this head. As the matter is not strictly concerned with the present Budget, I must ask Your Honour and the Hon'ble Members of the Council to pardon me for having taken up time by alluding to it.

"In conclusion, there are many critics of Government, of their financial policy, of their laws and Acts, but it is to be regretted how seldom we find any acknowledgment from those who should be the first to allow and publicly state what the forethought and care of Government have done for the millions they rule. Is this failure due to ignorance of the work that is being done, or is it that they are really not in touch with those who have benefited? I am especially referring to the Agricultural Co-operative Societies that have

[1] The Bengal Famine Code, 1908

been established all over India. I have failed to notice in any Provincial Council or in the Imperial Council itself non-official Members acknowledging what has and is being done for the raiyat and cultivator of India. But if the critics who should have realised this have not done so, the International Institute of Agriculture fully acknowledges what has been done; and if those who are really interested in the welfare of the agriculturist will procure (if they have not already got a copy) a Bulletin of the Bureau of Economic and Social Intelligence, No. 3, December 31st, 1910, published in Rome, they can see for themselves how favourably the progress of these Societies in India compare with those in other parts of the world.

"Mr. H. W. Wolff in the 3rd edition of his book on 'Peoples' Banks' has said of the legislation by which it was initiated 'that it has borne fruit in such abundance as has never before been witnessed in the Co-operative Credit movements.' Now this movement is an illustration of State aid effectively administered, rather than of organised self-help, and thousands of Indian cultivators to-day are expressing their 'Shukr Guzari' to the 'Sircar' for what it has done for them. With those who have failed to do so, is it a case of—'a prophet has no honour in his own country?'"

The Hon'ble Mr. Norman McLeod said:—

"I had not intended addressing the Council at this session, but recently I was twitted with the fact that the representatives of the Chamber took no interest in the actual work of the Council. I had no idea until now that the making of speeches was a part of that work; in fact, from my point of view, I always looked upon long and frequent speeches as the frothing of a boiling imagination, and calculated more to delay than further the business before us. I think Your Honour will bear me out in that I have tried in a small way, without making speeches, to facilitate the success of our deliberations. As, however, it appears the unfortunate rule that every member should speak, there is apparently no monopoly in the orgy of oratory to which we have listened. I now unwillingly claim your brief attention and, as at this stage of the session, Hon'ble Members are allowed to diverge from the actual business of the Budget, I need only state with regard to it that, as far as I can gather, the Members of the Chamber of Commerce are quite satisfied with the way it has been stated and explained, and with the proposals of expenditure as put forward. In this connection I was rather surprised that an Hon'ble Member of the Finance Committee should have complained of how little scope was given to non-official Members of prompting in the distribution of the Provincial funds. I think this is a matter for congratulation than otherwise, as it shows us what an efficient executive is in charge of the financial affairs of this Province. I think in another connection it is also a matter for congratulation, as judging from the various resolutions put forward and the speeches at the introduction of the Budget, and to-day, there is, to my mind, a danger to our Province of being educated to a state of mental repletion and of being physically starved during the process. I have the greatest respect for education within limits commensurate with the receptive capabilities of the students, but I see around me, in my daily avocation, the most painful instances of men working on a pittance, who have been educated mechanically to a certain defined standard, and who, if they had applied the same mental capacity to acquiring a practical trade, would now have been earning a handsome competency. It must not be forgotten that the learned professions are limited, while the aspirants to them are unlimited; the demands of Trade and Industry are unlimited, while the supply of suitable candidates in and around Calcutta—the greatest industrial centre of Bengal—is so limited that employers have to indent on other countries for men to fill appointments which should be entirely *Swadeshi*. From this it would certainly seem that the trend of education in the past has been misdirected, and that in the future it should be so guided as to avert the danger which is threatening. It is a pleasing feature in some of the speeches which we have heard (or read) to-day that the advantages of a Technical and

industrial education are being recognised, and a movement in this direction should be strongly encouraged.

"I would like now to mention a matter which is of particular interest to the community which I represent, and I take it of the same interest to the whole of Bengal, and that is the present congested position of our High Court. I cannot say that there is any particular blame to attach to anyone, as the course of events in Bengal have unfortunately of recent years brought about a state of matters without parallel in recent history. While we deplore that such is the case, the large trade interests of the Province demand that the present state of matters should be rectified, and that, up to legal limits, a sufficient number of additional Judges should be appointed so as to adequately cope with the arrears which have crept in. I would not advocate permanent additions to our Courts, unless absolutely necessary, as High Court Judges are costly luxuries, but I would certainly strongly advocate such appointments being made until the millennial time should arrive when they are no longer necessary. A suggestion is put forward by an Hon'ble Member that while the Province of Eastern Bengal and Assam participate in the advantages of recourse to our High Court, they do not share in the expenses. It would seem but only fair, if this is the case, that the said Province should bear a proportionate share of the expenses involved, and the matter is quite worth looking into.

"I desire to endorse the congratulatory and complimentary remarks which my hon'ble colleagues have addressed to Your Honour as to the Budget and for your personal welfare."

The Hon'ble Mr. DIP NARAYAN SINGH said :—

"Your Honour, most of the points that I intended to speak upon have already been mentioned by the Hon'ble Members that have preceded me, and I do not think that I need take up the time of the Council by a recapitulation of these very points. In fact, Sir, after what has already been said I did not intend to have spoken at all, but some remarks that have been made by some non-official Hon'ble Members call for a reply, and I consider it my duty to say something about them. Your Honour has already heard the opinion of non-official Members as regards the scope and function of the Finance Committee, and I feel that I must say a few words to strengthen the hands of those of my colleagues who have pressed upon this Council the advisability of reconsidering the rules that govern the working of that Committee. The Hon'ble Mr. Saiyid Wasi Ahmad and the Hon'ble Rai Shiba Shankar Sahai have already dealt with this subject, and I shall simply supplement their remarks by pointing out to the Council and to Your Honour that if the Finance Committee is to do nothing more than to discuss the small item of five or six lakhs out of a total expenditure of five crores of rupees, it is hardly necessary that a Finance Committee should exist at all. My Hon'ble friend Mr. McLeod thinks that it is matter of congratulation that this is so. He says that it shows what a splendid executive we have. I think, Sir, that the non-existence of this Committee would be a matter of greater congratulation according to him. I take this opportunity to say, and I think I am right, that most of the non-official Members of this Council differ from my Hon'ble friend on this point. Sir, if the remarks which you made in one of your pronouncements shortly before the formation of this Council, namely, that the time has come when an attempt should be made not only to govern for the people but through the people, is to be given effect to—I believe that some effective voice should be allowed to the non-official Members in the discussion for the allotment of sums for expenditure in the Finance Committee. Sir, in the Budget that has been placed before us I submtt that most of the items appearing in the schedule of new expenses estimated to cost more than Rs. 5,000 might well have formed the subject of discussion in the Finance Committee. I am told, Sir, that they have already been agreed upon and are obligatory. Is it impossible, Sir, for the Finance Committee to be a working body throughout the

year? Indeed it must be advisory in most of its deliberations. But I submit that if the larger items of expenditure had been referred to the Finance Committee, it might have been possible to reduce some and to modify others. Anyhow, Your Honour would have had the satisfaction of having public support in most of the items of expenditure budgeted. My friend the Hon'ble Mr. Filgate has given us a very rosy picture of the condition of the peasantry in North Bihar and he has said that free and compulsory primary education is not wanted by the people of his part of the country. Sir, if every country had to wait till its uneducated masses desired compulsory education, I beg to submit that not one country in Europe would have had such an enactment on its Statute book to day. Sir, every country, even England, when it proposed to enact a law for compulsory and free education has raised a storm of protest, against such measure and yet believe there is not a country that does not bless the day when compulsory and free education was made the law of the land. I beg to say a few words on the remarks made by my Hon'ble friend Maharaja Sir Prodyot Kumar Tagore. It is a subject upon which I had not wished to speak. It has reference to the paper which has been subscribed for by the Government for free distribution amongst the peasants of this Province. I admit, Sir, that the object and intention of the Government is good. But I entirely differ from my hon'ble friend when he says that the general impression of people is that this object will be achieved, on the other hand I have reasons to believe that the general opinion in the Province is that the object of the Government will not be achieved. True it is only an experiment, and as my friend has said we must wait and see. With reference to this subject I must say a few words with special reference to Bihar. This subsidised paper, Sir, is to be published in the Bengali vernacular, and I suppose it is intended to be circulated only in the Presidency and Burdwan Divisions. Will it be too much at this hour of the day to suggest that if only two divisions of the Province of Your Honour's Government are to benefit, if they are to benefit at all, from this paper, some arrangement should be made to reduce the expenditure from 62,000 rupees to a smaller sum. I find that the Government of Eastern Bengal and Assam are spending only Rs. 20,000 for a similar paper. Sir, if Rs. 20,000 suffices for a whole Province, it is worth considering whether an equal amount or perhaps even a larger sum may not be sufficient for only two divisions of this Province.

"I am glad to find that my friend the Hon'ble Mr. McLeod has referred to the question of the High Court here. I brought this matter before the Council last year, and I must say that I am still unable to understand why when the High Court benefits both the Provinces of Western and Eastern Bengal, Your Honour's Government should have to pay the whole of the cost

"There is one other point that I wish to bring before the Council to-day. Sir, that is the expenditure under the head Public Works Department. I think it my duty to tell the Council that there is an impression abroad that there is room for a great deal of economy in this department. Sir, the cost of civil buildings, roads and works of public utility in 1906-07 came up to a little over 57 lakhs. In 1907-08 it was 61 lakhs, while in the revised estimate of last year it was only 38 lakhs, and yet we find that the expenditure on Public Works establishment has actually risen from 8 lakhs in 1906 07 to something like 10 or 11 lakhs in 1910-11. Now, Sir, this clearly shows that the permanent establishment of the Public Works Department goes on increasing whether the cost of new works taken in hand be large or small. I think the time has come when Your Honour should direct your attention to the Public Works Department and consider whether, excepting the Irrigation Department, most of the building work cannot now be entrusted to private firms. Your Honour will, I am sure, be able to make substantial reduction in the administration of this department. This question has been taken up by no less an able authority than Valentine Chirol in his recent work on India, and he suggests this same method. I think, Sir, that his remarks are worthy of consideration. With these few words I beg to support the Budget."

[*Mr. Oldham.*]

The Hon'ble MR. OLDHAM said :—

"Several Hon'ble Members have commented upon the increase under Excise revenue shown in the Revised Estimates for 1910-11. Since, in most cases, the remarks that we have listened to refer to the same points, I propose to give a general reply in the first instance to the criticisms levelled against the figures.

"The policy of Government in connection with the taxation of country-spirit is that the taxation should be as high as may be possible without giving rise to illicit manufacture and consumption of liquor. The principle may be roughly stated, as it often has been, thus—that the maximum of revenue should be sought with the minimum of consumption. This policy is always kept in view. A mandate from Government cannot change the habits of the people in respect of drinking There is a normal demand that has to be met. If it be not met by licit supply, it will be met by illicit supply. It is the endeavour of Government to supply this demand with as pure and carefully-manufactured liquor as possible, at as high a rate of taxation as possible; to substitute a better class of liquor for the often defectively-made liquor sold under the old system, and at the same time to strive after the attainment of a condition of things under which every bottle consumed shall be taxed at as high rate as possible without driving habitual consumers to clandestine practices. We are still a long way off this ideal; but we claim to be working towards it. A great advance has undoubtedly been made in recent years; but even under the present system, with more accurate means of check and enlarged powers under the law, numerous cases of illicit distillation are brought to light in most parts of the province, and the only reasonable inference is that we have not yet reached the limit of licit consumption.

"The increase in consumption to which certain Hon'ble Members have specially referred has occurred in Calcutta and in the Monghyr, Bhagalpur and Purnea districts. In Calcutta the consumption fell (for reasons explained in the reports) in the years 1908-09 and 1909-10; and the increase noticed during the year just ended is merely a return to the normal, and is due, it is believed, to the cheaper prices of food-grains and also to a great extent to the rise in duty on foreign liquor. In fact the Collector of Calcutta informs me that the increase referred to has probably been counterbalanced by the decrease in the consumption of foreign liquor. The figures of consumption are still a long way behind those of 1907-08. In the districts of Monghyr, Bhagalpur and Purnea, the contract supply system was introduced in 1909-10. A heavy fall in consumption followed, owing largely to unfounded prejudices against the new contract liquor and also to the less favourable agricultural conditions. The increase in 1910-11 merely indicates that the prejudices referred to are dying out, and that conditions are reverting to the normal. In Monghyr the consumption is still much below what it was in 1908-09, the year previous to the introduction of the contract system.

"In the other Bihar districts, viz., throughout the Patna and Tirhut Divisions, there has been a very much larger decrease in consumption during the year just closed as compared with 1909-10, to which no attention has been drawn by any of the Hon'ble Members who have spoken. This, however, is entirely due to the introduction of the new contract liquor during the year, and is therefore of a temporary character. And here I must sound a distinct note of warning to those who confine their attention in too great a measure to the question of the consumption of liquor. We must never forget that by keeping too tight a hand on the consumption of liquor or placing undue difficulties in its way, besides the risk of illicit distillation, we incur a very grave danger of driving consumers to the habit of taking much more harmful and degrading stimulants, such as *ganja*, *bhang*, *charas*, cocaine, etc. We have had a striking example of this danger during the past year in Northern Bihar districts, where there has been a distinct rise in the consumption of *ganja*, which is undoubtedly due to a great extent to superstition and prejudice against the change of system and liquor introduced with effect from the 1st of April, 1910.

[*Mr. Oldham.*]

"I am not quite sure whether the Hon'ble Member who represents the Municipal Commissioners of the Chota Nagpur Division has made his meaning clearer this year than last. The drinking tendencies of the aboriginal tribes of that division are well known; but on looking into the figures I find that there has actually been a decrease in the consumption reported from that division. I do not follow the Hon'ble Member in his figurative—I was going to say fantastical—allusion to blood and water.

"From the remarks made by the Hon'ble Member who represents the University of Calcutta, I must assume that the hon'ble gentleman is not familiar with the history of Excise administration in this province since the Indian Excise Committee sat in 1905-06, when all details of the administration of the department were investigated and discussed, and since when all the recommendations of the Committee have been carefully scrutinised by the Government of India in consultation with the Local Governments, and definite lines of policy and administrative reform laid down for our guidance by the Supreme Government. If the Hon'ble Member had asked for information on the points raised, I would gladly have supplied him. The Hon'ble Member resents what he calls the 'stereotyped explanation' that the expansion of Excise revenue is due to improved methods of administration. I feel that equal objection may be taken to the reiteration of what may be called stereotyped criticisms of the Government's Excise policy, which have been fully met on many occasions before, and which are calculated in a great measure to impugn unfairly the motives of Government in the matter of Excise administration. The Hon'ble Member asks what can be done and what has been done to check the growth of consumption. I shall not take up the time of the Council by attempting to give a statement of all that has been done and is being done. I need only refer to one or two more important measures.

"The most far-reaching reform undertaken in this province has been the introduction of the contract supply system, in supersession of the old outstill and central distillery systems. The contract system has now been extended to all districts of the province except Palamau, Singhbhum and Angul and parts of six other districts, where it has been found impracticable under present conditions to enforce it. One of the most essential features of this system is the separation of the privilege of manufacture from that of retail vend, which means a check on consumption, since under a system under which manufacture and sale are united in the same hands, the competition between rival manufacturers and sellers must necessarily result in forcing up consumption.

"Under the new system we are giving to consumers a purer and more wholesome liquor.

"Under this new system we have also largely increased the price of country-spirit to the consumers over a great portion of the province.

"Under the new system the actual consumption—which could never accurately be known under the outstill system, and which under that system was notoriously under-estimated in their own interests by the licensees—is now known, and the prices of liquor, the rates of duty and the vend fees can therefore be more accurately controlled and more suitably regulated.

"This new system also enables us to detect more easily offences against the law, more especially cases of illicit distillation and manufacture. The provisions of the new Act, which came into force in the latter half of the year 1909-10, have also strengthened the hands of the Excise staff towards their detection and prosecution of such offences. The result has been a large increase in the detection and successful prosecution of cases of illicit distillation. In four districts in which such offences have been notoriously rife in the past, the aggregate figures show an increase in such cases detected from 375 in 1909-10 to 889 in 1910-11; that is to say, more than double the number of cases have been sent up during the year that has just closed. These figures will give Hon'ble Members some idea of the extent to which the Government has in the past been, and is still being, deprived of its dues, and what a large

margin must still remain for the expansion of licit consumption, and therefore of revenue, at the expense of illicit and untaxed consumption.

"Then again, under the present system the figures of consumption are carefully scrutinized, the issues from every warehouse in the province being watched each month. If after proper inquiry it is found that consumption is rising unduly in any particular area, steps are at once taken to raise the taxation therein. In this way the rates of duty and the maximum prices have already been considerably increased in many parts of the province, and action will continue to be taken in this direction.

"For the information of those who profess to believe that Government expects and desires to see an increase every year under the head of Excise receipts, I may mention that the introduction of the system in the beginning entailed a very considerable loss of revenue, but this did not deter Government from enforcing it. I think I have said enough—though I could add much—to show that we do take such measures as are considered possible or praticable to check consumption without driving people to illicit supplies.

"I wish further to make it perfectly clear to the Hon'ble Members that there is still very large scope for expansion of the Excise revenue in this province. Even in the greater part of Bengal to which the contract supply system has now been extended, we have not yet nearly stamped out the illicit manufacture of untaxed country-spirit. In many of these districts enormous quantities of illicit liquor are still consumed. Then there are the outstill areas in the remoter and more inaccessible parts of the province, where communications are still in a very backward state, and where country-spirit is not yet fully taxed. And, lastly, there is the increase in population to be taken into account—a matter which is not uncommonly overlooked. It may interest Hon'ble Members to know that the latest comparative figures available to me show that while the incidence of Excise revenue per head of population in Bengal is 5 annas 3 pies, in Madras it is 11 annas 3 pies, and in Bombay it is 1 rupee.

"As regards the question of reduction in the number of shops, I would refer to the remarks made in this connection by the Indian Excise Committee in 1905-06. They referred to the general tendency in this province to reduce the number of country-spirit shops, and added that they were disposed to concur in the opinion of the then Excise Commissioner that this policy had been carried so far in some districts that there were not enough shops left to supply the legitimate needs. In spite of this view, during the past five years the number of country-spirit shops has been considerably reduced. In 1906-07 the number was 3,060, and it has been gradually reduced each year to 2,918 in 1910-11. The number of *tari* shops has also been very largely reduced during the same period, as may be seen from the departmental reports. Measures have also been taken, with a view to check the consumption of opium and *ganja*, to give details of which would take up too much of the time of this Council.

"It should be a matter for congratulation and not for regret, if in spite of increasing the rates of duty and the prices of liquor and reducing the number of shops, we obtain an increased revenue, which can be traced to the gradual substitution of licit and taxed liquor for illicit and untaxed liquor.

"There are only one or two other questions raised by the Hon'ble Member for the University that call for a reply. The new Excise Act has made no changes in the machinery for collecting the revenue as he seems to imagine. It is not within the competence of the Local Government to abolish the auction system. This system is in force under orders of the Supreme Government.

"Similarly, in the case of the amalgamation of the Excise and Salt staffs, this course was recommended by the Indian Excise Committee and approved by the Government of India It is useless raising questions in this Council with which the Local Government cannot finally deal. The figures quoted by the Hon'ble Member in respect of country-spirit shops and *tari* shops are incorrect The number of country-spirit shops was reduced by 24, and the number of *tari* shops by 844, during the year 1910-11, and not by 3 and 19, respectively, as stated.

[*Mr. Küchler.*]

"In respect of Calcutta the Hon'ble Momber mentions that only one shop was reduced in the past year, but he *omits* to mention that no less than 16 country-liquor shops were abolished in 1908-09 and 1909-10, really leaving no further room for reduction.

"In his remarks about the increase in license-fees at the recent settlements (country-spirit shops were not settled—only shops for the sale of opium and other drugs), the Hon'ble Member seems to forget that an increase in the license-fees brings about an increase in the retail prices, which in itself tends to check consumption. Moreover, in respect of opium shops the restrictive system is in force in Calcutta, under which the issues to shops are fixed, and so consumption is necessarily limited.

"I have received no report to show that the celebration of the *Holi* festival was this year conducted in a different manner from what it has been in the past. No necessity arose for closing the liquor shops. If it had, the Commissioner of Police or the Collector of Calcutta would have moved in the matter. Early closing would not have affected the revenue; for festivals like this stocks are laid in beforehand."

The Hon'ble Mr. Küchler said:—

"I am in the fortunate position of having on the present occasion less to reply to than last year in the way of actual criticism of the provisions made in the Educational budget. Gratitude to the Government of India for their liberal grant for Education is no doubt largely responsible for this benevolent attitude on the part of the non-official Members of the Council, and I can only hope that this gratitude is not entirely a sense of favours to come; not that I do not share this feeling myself to a certain extent, but because it is very doubtful how far any expectations which we may entertain in this respect are likely to be realised. I must strongly emphasize the fact that this Imperial grant is for objects of non recurring expenditure, and that it can in no way be looked upon as a permanent addition to the expenditure under the Education budget. I am led to utter this note of warning by the expressions of satisfaction which have fallen from one or two Hon'ble Members as to the steady increase of the Educational budget expenditure up to the amount which is shown in the Financial Statement for the year 1911-12 and which includes the Imperial grant in question. The general feeling of satisfaction with the present Educational budget is reflected even in the utterances from Bihar in which, with one exception, we do not find the same note of complaint as was heard at the corresponding meeting of the Council last year with regard to the unequal division of educational expenditure. It is recognized by the Members from Bihar that Government is making an ieffort to respond to the increased demands for higher education in that part of the province, though at the same time it is suggested that Government might give even more assistance than it does at present. The specific wants that have been indicated are, as last year, chiefly concerned with collegiate education, and a special request has been advanced on the part of the Bihar National College at Patna that its grant-in-aid should be still further increased. The grant-in-aid, however, to this college was doubled as recently as the beginning of the last academical session, and it is obviously too early to consider now the question of a still further increase. The department has noted with satisfaction the large increase in the number of students attending this institution as well as the enhancement of the fee-rate which it is proposed to make from the commencement of the next session, and it will be necessary to examine carefully the financial effect of both of these factors before any conclusion can be arrived at as to the exact amount of assistance which the college requires to put it on a sound educational footing. In addition to the Bihar National College there are three other first-grade colleges in Bihar, the Patna Government College, the expenditure on which has of late years been very considerably increased, the Bhumihar Brahman College at Muzaffarpur, the application of which for a grant-in-aid is, as has already been pointed out, at present under consideration, and the Tej Narayan College at Bhagalpur which is, through the munificent liberality of a private benefactor, fortunately

in a position to dispense with Government aid altogether. It will be seen therefore that the wants of Bihar in the matter of collegiate education are not being neglected, and though the increased demand for such education on the part of Biharis necessarily connotes some additional assistance from the public exchequer, that assistance must be strictly correlated with the actual measure of advance attained as shown by experience.

"I have said that there was one note of dissent from the general chorus of approval on the part of the Bihari Members with regard to the Educational budget this year. The Hon'ble Babu Braja Kishor Prasad has again returned to the attack with regard to the subjects to which he called attention when moving certain resolutions in the Council, and has again covered the same grounds in his remarks as on that occasion. I do not think I shall be justified in following the same course, but I would ask for permission to deal with one or two of the new points which he has raised. With regard to the professorship at Patna College, the figures which he has now produced cannot be said to be very conclusive as to the alleged popularity of this subject. But any force which they might have had is entirely lost when it is considered that they refer to a state of affairs which existed before the present University Regulations were introduced At that time there was no such subject as Political Economy and Political Philosophy in the University curriculum. And no comparison is therefore possible between the popularity of these two different subjects. From *a priori* consideration and from actual experience I am in a position to affirm that the subject of Philosophy is unpopular not only in Bihar but in Bengal as well. As to the source from which I obtained my information as to its unpopularity at Patna, I may say that it was derived from the educational authorities of the college itself, and I venture to think that the latter are in a better position to gauge the popularity of this subject among the students than the Hon'ble Member.

"With regard to the question of preferential treatment for Bihar in the matter of education, I have no quarrel with the Hon'ble Member as to the desirability for such treatment. But I must take strong exception to the method by which he proposes to give effect to it. By preferential treatment in the case of races, educationally backward, is generally meant exemption from fees or at least the reduction of fees, and also in some cases the reduction of the standards of education itself, but I have never before heard the somewhat grotesque proposal advocated by the Hon'ble Member that schools in a part of the country, educationally backward, should be better equipped and better staffed than those in parts more educationally advanced. I hardly think that this suggestion will receive support from the Hon'ble Members from Bengal who were prepared on a previous occasion to endorse the plea of the Hon'ble Member for preferential treatment for Bihar.

"There is one other important matter in connection with education in Bihar which has been referred to to-day, and that is the removal of the Patna Collegiate School from the college buildings This removal was necessary for two reasons. In the first place the University Commission strongly urged that schools and colleges should be entirely separated and, secondly, further accommodation was required for the work of the Patna College itself. As the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din has stated, a site was tentatively selected for the new school buildings, but in the absence of funds to meet the cost of this project, which would have been very considerable, it was found necessary to remove the schools for the present to a hired building, and no further action was taken with regard to the acquisition of land for the new school and the preparation of plans and estimates. The present arrangement is admittedly unsatisfactory, and the question of providing the Patna Collegiate School with buildings of its own at the earliest possible opportunity is not being lost sight of.

"Another division which has come forward with certain specific requests is that of Chota Nagpur whose wants are as heretofore voiced by the Hon'ble Babu Bal Krishna Sahay. The Member has referred to the need of hostel accommodation for pupils reading in the various schools at Ranchi and has specially

referred in this connection to the Zilla School. I can give the Hon'ble Member the assurance that the question of hostels for the Zilla School is at present under consideration, and that, with the help of the Government of India grant, the projects, which are at present before the department, are likely to be materially advanced within a very short time. The Hon'ble Member has also recommended the case of one of the Mission Schools at Ranchi, and has suggested that it should receive a material assistance towards the erection of a new school building.

"I am afraid I cannot fully go into this matter as the time-limit imposed on me has already been exceeded, and I can only say that after careful consideration it has been found impossible to hold out hopes of a grant to the school in question.

"Reference has been made in the remarks of one or two Hon'ble Members to the question of direct moral instruction, and the suggestion has been made that a provincial conference should be called to discuss the subject. This question is one of great importance and has been keenly debated of recent years in Western countries. No conference, however, which has ever been held, at least no representative conference, has been able to arrive at any conclusion on the very important issue, whether direct moral instruction can with advantage be given apart from the sanction of religion. I do not think it likely that any conference in Bengal would carry its deliberations to a more successful issue. As far as I have been able to judge myself, the preponderance of opinion, in this province at least, is opposed to the divorce of moral instruction from religious teaching. If this be so, and even in the contrary case, I think that before Government can take action there should be some stronger expression of opinion on the part of the community itself as to its wishes on the subject than has hitherto been the case. The initiative, I think, should come from the community itself, and I would again point to the fact that the Government schools form only a microscopic minority of the educational institutions of this province, and that as regards private schools, whether aided or unaided, there is no objection to the introduction of religious instruction, provided the community so desire. The Christian missionary bodies have made full use of the opportunities presented to them in this respect, and it remains to the adherents of other religious beliefs to take the initiative in the case of other private schools attended by their children.

"There are many other matters of interest which have been brought before the Council on which I should have liked to comment, but I recognize that I have already occupied the time of the Council to an extent considerably beyond what I am entitled to, and I am reluctantly compelled, in deference to the wishes of His Honour the President, to bring my remarks to a close. The views of the Government and my own views on the subject of female education, on which the Hon'ble Babu Bhupendra Nath Basu has made some interesting observations, are sufficiently well-known."

The Hon'ble Rai Kisori Lal Goswami Bahadur said:—

"Your Honour,—The Hon'ble Babu Deba Prasad Sarbadhikari has this year reiterated his charge of the unsatisfactory character of explanations offered in regard to the variations in the anticipated receipts under the head 'Registration.' He seems to be under the impression that the explanation offered last year by the Hon'ble Mr. Gourlay, and that offered while the Registration budget was introduced this year, are antagonistic and inconsistent. He has quoted a sentence from the speech of the Hon'ble Mr Gourlay with the usual marks of quotation, and chooses to interpret it in a way which was not surely meant by the speaker, for the Hon'ble Mr. Gourlay followed it with further explanations to which the Hon'ble Member has not referred. The Hon'ble Mr. Gourlay told us that a period of scarcity, when the cultivator is driven to mortgage 'his holding, would necessarily increase the number of registrations and the amount of the registration fees.' This year we expect a good harvest and we anticipate a diminution of receipts from registration. Experience and observation extending over a number of years have conclusively shown that

the receipts from registration fall off during a period of prosperity, and increase in times of stress and scarcity. As a matter of fact, agricultural conditions have steadily improved since 1908 each year, and we find the actual receipts are steadily decreasing. In 1908, the receipts amounted to 14 lakhs 28 thousand, in 1909 to 13 lakhs and 97 thousand, and in 1910 to 12 lakhs and 62 thousand.

"The estimate of receipts under registration in 1910-11 has been proved to be an over-estimate. It is so probably because the change for the better in the agricultural prospects was not fully realized in the beginning of the year. Perhaps, the Hon'ble Mr. Gourlay in this failed to exhibit to much advantage the gifts of a weather-prophet. The year that has just set in will, we hope, keep up the progress of prosperity which we put forward as a reason for the anticipated diminished receipts under registration.

"It would hardly lead to practical and useful results to go into the minutiæ of all the factors which operate to increase or decrease the registration receipts. For practical purposes, it is sufficiently safe to regulate our calculation according to the agricultural prospects of each year.

"The Hon'ble Babu Bal Krishna Sahay has asked your Honour to make a liberal contribution to the Boards of Chota Nagpur to open new roads. I must remind my hon'ble friend that Government, year after year, has been making liberal grants to the Chota Nagpur Boards for improving their means of communications. During the last three years the Government grants for roads and bridges amount to, respectively, Rs. 22,165, Rs. 58,876 and Rs. 57,979. No doubt the needs of this growing division are considerable, but so are other demands upon the Provincial revenue.

"The Hon'ble Maulvi Saiyid Zahir ul-din wants provision to be made for grants to the District Boards generally, for effecting improvements in the matter of sanitation and water supply. Definite projects in either respect can be assisted from the general sanitary improvement grant. The general resources of the District Boards are already aided from the augmentation grant. It is not clear what more is required. In the absence of definite proposals as to the method of expenditure, it is not expedient that lump grants should be made to District Boards, with a general injunction to spend them upon sanitation and the improvement of water-supply.

"The Hon'ble Babu Bal Krishna Sahay says, 'I am afraid that there is no provision in the Local Boards Act for reservation of tanks for the supply of drinking water.' Section 99 of the Local Self-Government Act makes special provision for the reservation of tanks for the supply of drinking water. If the Ranchi District Board desires assistance towards any scheme for the improvement of the water supply, it should submit a well-considered project which can then be considered.

"The Hon'ble Rai Sitanath Ray Bahadur, in deploring the want of zeal on the part of Government in the matter of supply of good drinking water in rural areas, made a strong appeal for Government grants to the Boards for that purpose. I fear the Hon'ble Member has not taken the trouble to acquaint himself with the real state of affairs. I shall read a paragraph out of the last Government resolution reviewing the working of the District Boards with a view to show that the accusation of apathy lies at the door of the members of the Boards rather than that of the Government. Government has administered a rebuke to the Boards in the resolution, and I think the Boards will be able to show a better record of their work in the matter of rural water supply in the year which has just set in—paragraph 20 (page 6) of the Resolution:

'In nine districts only out of 29, viz., in Birbhum, Nadia, Khulna, Patna, Shahabad, Muzaffarpur, Monghyr, Bhagalpur and Purnea, did the expenditure on account of water-supply exceed Rs. 7,000, the standard which is regarded by Government as a minimum, although the attention of all District Boards has repeatedly been drawn to the necessity of improving the sources of water-supply in rural areas, the latest orders being contained in Government Circular No. 7T.—L S.-G., dated the 24th May 1910. Unless local bodies will, of their own initiative, pay greater attention to this important item of local administration, the Local Government will be left with no alternative but to embark for this purpose a

portion of the grants which are made in aid of the resources of District Boards. Such a course will be adopted with reluctance, but it is impossible to acquiesce in the persistent disregard of the instructions in this matter."

The Hon'ble MR. SLACKE said:—

"Sir, I would express my cordial thanks to Hon'ble Members for their courtesy and consideration in letting the official Members know beforehand the nature of the comments they were going to make on the budget, thereby enabling the latter to procure in time the details needed.

"The Hon'ble Rai Baikuntha Nath Sen Bahadur asks for details in respect of certain sums allotted for sanitary purposes, and desires to know whether Government has in contemplation any definite scheme of sanitary improvement and whether any steps are to be taken for the supply of good drinking water. I would refer the Hon'ble Member to the remarks I made when the budget resolutions were discussed, in connection with the method followed in dealing with this grant.

"That also applies to the remarks which the Hon'ble Babu Hrishikesh Laha has made regarding malaria. But I would assure the Hon'ble Member that the Provincial Malaria Committee is fully alive to the magnitude of the evil and is receiving from Government all the aid they have asked for. At the same time, I would impress on Hon'ble Members the necessity of patience in a matter of this kind.

"The Hon'ble Babu Hrishikesh Laha would be glad to know what further water-supply and drainage projects have been sanctioned in the past year. The grants made in that year are set out in paragraph 60 of the budget notes. Some of these grants were made towards works which were approved or were under discussion in previous years and are probably not new in the sense contemplated by the Hon'ble Member. Others, as for instance the grant to the Darjeeling Municipality for drainage and to Khalna for water supply, were for the furtherance of existing projects. It may perhaps be said that the initiation of the Bagjolla and Nawi Sunthi projects and the drainage schemes of the Ranaghat and Kushtia Municipalities were the distinctly new features of the year.

"Concerning the Hon'ble Member's remarks about the Bager Khal project, the matter is a very old one. The statement of cost, viz., 4 lakhs, which the Hon'ble Member has made, is, I have reason to think, an under-estimate. If any well-considered project under the Sanitary Drainage Act is submitted, Government will undoubtedly consider the desirability of making a grant, but it is for those locally interested to move in the first instance, and this they have apparently not done hitherto owing to a disinclination to pay for the improvement. No further provision by Government is needed for the Hooghly-Chinsurah waterworks, as the balance of the promised contribution was paid in the past year.

"The Hon'ble Member has made certain remarks about the provision of Rs. 1,07,000 for 'Timber and other produce removed from the forest by consumers and purchasers.' The entry in question is one of the account headings approved by the Comptroller-General, and a similar entry will be found in the Imperial Accounts. The expenditure referred to is incurred in connection with the removal of timber and forest produce by private purchasers. The charges occur chiefly in the Sunderbans Division and include such items as temporary establishments, the maintenance and working charges of launches and boats, tree-marking and travelling allowances. It is true that this expenditure might be partly debited to general supervision, but it is more convenient to show it under one head.

"I can say nothing definite with regard to what two Hon'ble Members have said as to the necessities of Patna until the facts have been represented to and considered by Government.

"With reference to what the Hon'ble Babu Kirtanand Sinha has said about the Bhagalpur waterworks, I assume that the Hon'ble Member has not been

supplied with all the facts, otherwise I fail to understand how he could speak as if Government had given no assistance at all to the Bhagalpur waterworks. From first to last the Government contributions towards the cost of the works have amounted to nearly two lakhs, and in connection with the present difficulties with which the installation is threatened by the river Ganges, the Sanitary Engineer has been in frequent communication with the local authorities and has just recently visited Bhagalpur. It now rests with the municipality to take action upon his recommendations.

"With reference to the proposal of the Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh, it would appear that his request is due to the ravages which in recent years have been caused by plague and malaria. The Hon'ble Member is doubtless aware that the subject of plague has been inquired into by Committees and Commissions, while, for the purpose of investigating the remedial measures possible for allaying malaria, Government has recently appointed a Provincial Malaria Committee. Under these circumstances, it is not considered that any practical good would result by acceding to the Hon'ble Member's request.

"As regards sanitary matters, nothing in my opinion will be gained by reserving tanks for drinking water till villagers have shown that they appreciate good drinking water. Had they already this wish, they would long ago have had such reserved tanks.

"At present, opposition is often made because people object to having to bathe in a different tank from that whence they get water. Until villagers get that wish,—and this can be secured through the co-operation of landlords and Hon'ble Members,—it would be premature and possibly dangerous to have tanks reserved for them, as some one must be put in charge of those tanks, which would be absolutely needless if the villagers themselves were alive to the value of good water, and that some one might abuse his position.

"I would also strongly impress on Hon'ble Members how much good could be done by their organizing measures whereby villagers could be taught to recognize the value of self-help. Much, very much good, would be gained from a *sanitary* point of view if villagers would keep the vicinity of their huts clean and their immediate surroundings free of jungle. I have come across some examples of what can be done by villagers who are alive to their particular needs. I would instance the manner in which in Chittagong spawning grounds are preserved and the purity of the well-known local breed of poultry is maintained.

"The supervision of navigable rivers by Government, to which the Hon'ble Babu Bhupendra Nath Basu and the Hon'ble Rai Sita Nath Ray Bahadur have referred, is a matter which is being considered by Government, who have suggested to the Chamber of Commerce the advisability of placing the Waterways Committee under the Railway Board. In view, however, of the financial position of the province, Government is unable to encourage any proposals which advocate extremely heavy expenditure without any prospect of a reasonable return. The expenditure by this province on the eastern waterways has exceeded 100 lakhs and the return is less than 1½ per cent.

"With regard to the remarks which were made by the Hon'ble Mr. Dip Narayan Singh about the Public Works Department, had the Hon'ble Member let me know beforehand the nature of the comments he proposed to make, I would have been in a position to give him statistics which would probably have led him to modify what he has said. As it is, I have not had the time to obtain these figures completely, and therefore I will later on furnish the Hon'ble Member with a note on the subject."

The Hon'ble MR. DUKE said:—

"If the Member in charge of the budget has the advantage of the last word, he also has the disadvantage of having to reply to a considerable number of disconnected suggestions which hardly concern any one else at

a time when the attention of the Council is rather wearied. I, therefore, propose to notice as briefly as possible the principal suggestions which have been made.

"The Hon'ble Babu Deba Prasad Sarbadhikari has made suggestions regarding the provision in a comparatively cheap manner of accommodation for Honorary Presidency Magistrates. This matter is at present under our consideration, and if it is possible to supply the necessary accommodation cheaply, we shall be only too glad to do so. The only note of warning which I have to strike is, that while the whole premises in Lall Bazar require reorganisation, we must not do anything which would render it impossible to carry out that reorganisation or which would be money thrown away. At the same time, I do not mean to imply that we shall go into very extensive reconstruction there. The cost would be prohibitive. We can only make up our minds to move within our means, *i.e.*, by reasonable instalments. I trust that one of the first things that we shall be able to do will be to provide additional courts for Honorary Presidency Magistrates as suggested.

"The next point on which I would touch is the question raised by the same Hon'ble Member regarding the provision of three lakhs of rupees for the Delhi Durbar. He suggested that the expense at Delhi would be an Imperial charge, and that this three lakhs would be towards expenditure in the province. That, however, is not the case. The expenses of the Bengal Camp at Delhi will be a Provincial charge, as they were on the last occasion of a Durbar at Delhi. So far, no provision has been made by Government in connection with the King's reception in Calcutta. It is impossible to make any, until we know what His Majesty's programme in Calcutta will be and what the local arrangements are to be.

"The Hon'ble Rai Baikuntha Nath Sen Bahadur suggested that various purposes which he had at heart might be obtained by savings in one direction or another in the Police budget. I venture to suggest that suggestions of this kind are of very little use. The Police budget has been subjected to very severe criticism, and so far as I know there is nothing that in ordinary probability can be saved out of it. On the contrary, at any rate, this is a budget which will from year to year have to go on increasing until the standard set by the Police Commission has been attained. The Hon'ble Member was perhaps somewhat more nearly on the mark when he suggested that the expenses of the scheme for the separation of the judicial and the executive might be obtained by the savings which we are now to make by the early conclusion of the Khulna trial. That conclusion is from a financial point of view a very satisfactory matter as involving a considerable saving, but what the total saving on our law expenses is to be until the other trials which are now in progress have concluded, we are not able to say. The fact that one of the smaller ones has come to an early conclusion is unfortunately no evidence that the others are going to be equally brief.

"The scheme for separation of judicial and executive, to which the Hon'ble Member referred, is continuously under the consideration of Government, and no doubt some proposals regarding it will be brought forward as early as possible, but a scheme of that kind is one which requires mature consideration, not merely by the Provincial Government, and it is certainly unlikely that anything will take place within the year to which this budget refers.

"The Hon'ble Babu Bhupendra Nath Basu was good enough to tender some advice on the nature of the charges that Government should take up against political offenders. He suggested that it would be more satisfactory if we proceeded against dacoits for dacoities and not for revolutionary conspiracy. It seems hardly necessary to remind the Council that Government does not prosecute for the offences which they would like to prosecute for, but for those which the evidence shows to have been committed. It is not our choice to prosecute for this offence or for that offence, but for the offence constituted by the evidence that is put before us according to the advice of our legal advisers.

[*Mr. Duke.*]

"The Hon'ble Mr. Saiyid Wasi Ahmad, in the same connection, has made a suggestion that it might be more economical if, for the purposes of Government prosecutions, we retained advocates on fixed salaries. I may first point out that to obtain advocates of really good standing, able to hold their own in the courts, we should have to pay very considerable salaries, but even so, the suggestion might be a very reasonable one, if we contemplated that we should for years to come be prosecuting the class of cases to which he refers. This is an assumption which we should be very sorry to make. It is true that for the past two years or so, we have continuously been prosecuting such cases, but I have no doubt that the Council shares with me the hope that these prosecutions are really nearing the end and that this is certainly not the time to consider how we should provide for similar prosecutions during a series of years. In the meantime, as has already been said, in case there should be further prosecutions of the same sort, we are considering how the expenses connected with them may be cheapened.

"The Hon'ble Rai Baikuntha Nath Sen Bahadur suggested that there was a general popular apprehension that a great deal of money provided for the Criminal Investigation Department was spent on business of a confidential nature without adequate control. To this, I think, a very simple answer can be given, and that is that of the whole grant provided for the Criminal Investigation Department which amounts to nearly Rs. 3,68,000; the amount which is not subjected to the regular public audit which all other Government expenditure undergoes, is Rs. 25,500. That is the whole sum that goes in expenditure of a confidential character and therefore gives the measure of the possible leakage or extravagance which the Hon'ble Member fears.

"The Hon'ble Mr. Dip Narayan Singh made a suggestion,—another Hon'ble Member made it also,—that the expenses connected with the High Court ought to be divided between this province and Eastern Bengal and Assam, since that province also enjoys the services of the Court. Regarding this, I have merely to point out that at the time that the provincial settlement was entered into after the Partition, the funds necessary for the expenses of the Court were allotted to this province and were not allotted to Eastern Bengal and Assam, and there is therefore no possible ground for redistribution between them.

"The Hon'ble Mr. Dip Narayan Singh also referred to the expenses on the subsidised paper, an experiment which he did not think likely to be successful. With regard to this I would only suggest that, as has already been said, the thing is an experiment, but the Hon'ble Member is hardly generous in suggesting that we should cut down the subsidy which was agreed upon, because the only result of doing so would be to fulfil his own prognostication. If he does not want the paper to succeed, the best way of securing that result would be to reduce the subsidy that has been decided on as being necessary for it.

"The Hon'ble Babu Bhupendra Nath Basu has drawn attention to the state of health in our jails, and with his usual acumen he has fallen upon what is certainly the weakest spot in the jail administration of the last several years, and it is the bad health of the Hazaribagh Jail in 1909. The actual number of deaths was high, as many as 76, and the mortality was about 72 per thousand. The Hon'ble Member omitted to mention, what he might have found in the same place where he obtained his information, that Government had appointed a special officer to make an inquiry into the matter, and that this officer had been working from the beginning of 1910 and that he has actually been working up to the 31st March last. I will supplement the information which I think the Hon'ble Member had at his disposal. Even in 1910 the mortality of the Hazaribagh Jail was somewhat serious. There were 37 deaths and on the diminished population the percentage was still 46·8 per thousand. This serious outbreak in Hazaribagh was due to dysentery in a more or less epidemic form, and it has now been prevalent in the jail for about two years. When dysentery lays hold of a jail, it is one of the most difficult complaints to counter. Somehow

or other, I believe, it has never been ascertained exactly how the whole jail becomes more or less infected by it, and for some time no precautions regarding the preparation of food or the water-supply avail to check it.

"What the conclusions of the special officer are, we are not yet aware, but, at any rate, this much has happened, that precautions having been taken in every conceivable direction, the epidemic has now come to an end, and I trust will not recur. Whatever suggestions are made by Captain Wells, who was on this duty, will be considered. While, however, the Hon'ble Member has put his finger on the weakest spot in the case of the Hazaribagh Jail, his general conclusions regarding the health of the Bengal jails are entirely at sea. The health of the jails has progressively improved for many years, with some slight fluctuations, and the mortality upon the whole has steadily decreased. This is a history extending over many years, 15 or 20 at least. In the year 1907 the jail mortality for the province was the lowest on record, viz., 16·9, that is before the scarcity of 1907-8. In 1908, jails were exceedingly overcrowded, and a large part of the population having been affected by scarcity, the figures went up as high as 31·9. In 1909, when the scarcity had passed away, that is the year with which the Hon'ble Member is dealing, the ratio had gone down to 24·8 per thousand in spite of the high rate in the Hazaribagh Jail. In the year which has just closed, 1910, the ratio has fallen to 18·7 which is a low ratio, and the lowest that has ever occurred except in 1907. There is no reason to suppose that as long as reasonable health conditions prevail in the province, and the jails are not overcrowded, there will be any set-back in this respect.

"The Hon'ble Mr. Saiyid Wasi Ahmad, if I understood him rightly, is under some misapprehension as to the reduction of the grant to local bodies for works. He apparently was under the impression that this grant has been reduced. If that is so, he is in error. That grant which had been increased for several years running remains as it was last year. The grant which has been reduced is the grant for minor works, that is, minor works on Government buildings. It was necessary to economise on that, but the grant for assistance to local bodies has not been touched.

"The Hon'ble Mr. Filgate has referred to the disappearance from the budget of the provision of Rs. 50,000 for a residence for the Commissioner of Tirhut. I need not perhaps go in detail into the circumstances which obliged us to omit this provision. It was done at a late stage when it was absolutely necessary to provide a certain amount of money for commencing the scheme for the removal of the Sibpur College to Ranchi, and this particular project was fixed upon as it was found that the plans and estimates were not yet ready. However, the Government recognises the extreme importance of providing a residence for the Commissioner, and every attempt will be made to secure a part, if not the whole, of the funds by reappropriation and to make a commencement in the current year.

"Passing from these specific suggestions which have been made by various Members I will come to one or two points of more general application. First of all there appears to be rather a general opinion both in the public press and amongst Members of the Council—I refer particularly to the speech of the Hon'ble Khan Bahadur Sarfaraz Hussain Khan, that this budget is a prosperity budget. I have already incurred a considerable amount of criticism by arguing that it is not. In fact the budget shows no very high degree of general prosperity. There are certainly some very satisfactory features in the budget, but from the standpoint of Provincial finance it is anything but a prosperity budget. The grants which we have received from the Government of India put us in a position to spend 17 lakhs on certain purposes of education and sanitation, non-recurring expenditure in both cases. We also know that we shall have the same amount for the same purpose for one year more. But beyond that we know nothing except that such an exceptional windfall is hardly likely to be repeated on the same scale. Apart from that,

the general improvement in the financial condition is only enough to give a small working balance, and looking to the many large schemes which we ha in hand, or which are being urgently pressed for, it seems to me that we sha have great difficulty in retaining that balance in future years It is true that th improvement in our actual income has been accompanied by the substitutio of a certain amount of growing income for fixed assignments, and that accor ingly the natural expansion of Provincial income should proceed somewh more rapidly than hitherto; but since for several years we have been begga at the gates of the Government of India for special assistance, it is evide that the expansion of income has not so far kept pace with the expansio of expenditure, and we have not been able to assure ourselves whether th improvement which has now been made in our position will suffice to produ equilibrium in this respect. My own strong impression is that, if at all, i will only be attained by the exercise of extreme financial caution Sever Hon'ble Members have referred to the very small degree of control whic the Financial Committee has so far been able to exercise over expenditur Complaints are made both as to the very small proportion of expenditur which is submitted for the consideration of the Finance Committee, and als as to the very short time that is allowed for consideration. As to the latte point, I think that most of the Members who have spoken on the subjec either have not noticed, or do not choose to admit, the explanation which ha been given in the memorandum attached to the Revised Financial Statement The circumstances of the present year have been altogether abnormal, becaus until the Government of India announced the special grants and the revision o the terms of our settlement to which I have just referred, it was impossibl for us to decide what amounts would be available for optional expenditure and even after the Government of India had informed us confidentially of th figures, it was some time longer before they indicated the conditions that were to attach to them, and until we knew this, we could not decide what our free surplus might be taken to be. Thus Government is free of responsibility in the matter, and I think it would be reasonable to assume that the Govern ment of India also had good reason for its procedure, and that it was unable to dispose of the subject until the time when it communicated its orders Accordingly, I freely admit the objection raised by the Hon'ble Rai Shiba Shankar Sahay Bahadur and by the Hon'ble Mr. Saiyid Wasi Ahmad that the Finance Committee have not this year been consulted in the manner which is contemplated by the rules. I can only point out that we have received the very substantial *solatium*, of which Members are aware, for this breach of proper procedure. The occasion is perhaps unlikely to recur. The actual Draft Financial Statement, as has already been pointed out, was presented this year three days earlier than in previous years, and several Hon'ble Members have acknowledged this fact. The time left for consideration is however extremely short, and while we shall consider how far it is possible to provide for more deliberate consideration, we are very much tied by the programme laid down for the budget of the Government of India, and it is improbable that we shall be able to provide for any very substantial extension in the later stages of the budget.

"As to the objections to the small proportion of expenditure which comes under the consideration of the Finance Committee, I think reflection will convince Hon'ble Members that it is in the nature of things, and I do not believe that most of them share the ideas which the Hon'ble Mr Dip Narayan Singh appears to hold, that the whole expenditure of the province ought to be reviewed every year by the Finance Committee. That certainly would involve sitting practically continuously throughout the year, and it certainly was not part of the original scheme laid down by the Government of India for the functions of the Finance Committee. A reference to the directions and circulars before this Council was constituted will show that nothing of this kind was contemplated. The idea was that the Finance Committee should, at a reasonable period before the preparation of the budget, consider the optional expenditure which it might be possible to provide for. The income of the province is no more than sufficient for its more conspicuous requirements. By far the greater part of it goes upon permanent establishment, the expenditure

upon which we are often urged to increase, but which it is hardly possible anywhere to reduce. Of the remainder, even that portion which is non-recurring, mostly public works of one kind or another, a large part is on works in progress, works which have already been settled on in previous years. Once a work has been put in hand it must go on, and the only economical way of carrying it on is to do it as fast as possible, to keep the works establishment fully employed and to spend the largest amount in the given time that they are able. In all subjects of this kind the attention of the Finance Committee is hardly required, and if Members attempted to review such expenditure they would surely find that they had more cause than they have at present to complain that their action was infructuous. The amount which is available for new projects and new schemes must always therefore be comparatively small. Again, the choice of the Finance Committee as to the objects of expenditure must always be somewhat restricted, since it is useless immediately before the year begins to propose to spend money on schemes which have not already been fully considered and matured. Such a course must infallibly result in a large part of the allotment remaining unexpended. If Hon'ble Members desire to promote particular objects, they can only do so successfully by taking them up at a much earlier stage than that of the Finance Committee, by using their influence in the various ways open to them, particularly by moving resolutions, to have schemes considered and prepared, and it will then be possible for the Finance Committee to select from schemes already matured those which they prefer.

"The Hon'ble Rai Shiba Shankar Sahay Bahadur has objected that certain items which ought to have found place in the schedule of new expenditure have been omitted from it. To one of these—that is, the provision of three lakhs for the Delhi Durbar—we must plead guilty.

"The sanction of this expenditure came late in the day and it was omitted from the schedule. It was, however, referred to in the memorandum, and the speeches of Hon'ble Members show that it has not escaped notice. I cannot, therefore, accept his criticism regarding the remaining items which he mentions. Rupees 19,000 for additional allowances to non-official Members is an increase, but in no respect a new item; it has always found a place in the budget. Rupees 23,000 for temporary establishment in the Secretariat record-room is also not new. The establishment has been employed for two or three years past. Similarly, the mill engine at Buxar, costing Rs. 9,000, can hardly be classed as new. There was an engine for the workshop at Buxar before, and when it became useless, it had to be replaced and a new engine bought. This cannot therefore be referred to as a new scheme.

"The Hon'ble Mr. Dip Narayan Singh made similar remarks of the same general character, asserting that a great many new schemes had been omitted from the schedule. I think, as I have already said, that the Hon'ble Member has an entirely wrong conception of the duties of the Finance Committee. To satisfy his ideas it would be necessary that it should be a Standing Committee exercising a sort of further control over the Financial Department throughout the year, and that is surely impossible. I have tried in the preliminary budget debate to explain that it is not the desire of Government to evade or restrict the influence which the Council is entitled to exercise over the preparation of the budget, and my explanations of the difficulties and attempts to meet the arguments which have been brought are not intended as an apology for any such attitude on the part of Government. We shall try to extend, as far as possible, the opportunities for consideration by the Finance Committee and by the Council, and particularly we shall consider whether consultation as to the selection of schemes may be possible at a period sufficiently early to permit of their inclusion in the budget of the year immediately following.

"The suggestion by the Hon'ble Babu Bhupendra Nath Basu regarding the Council Chamber I have, I think, failed to meet. He suggested, I believe,

that our present location was not entirely suitable, and that attempts should be made to secure a better one, and in particular that the possibility of altering the old Council Chamber so as to hold the present Council should be considered. That point was very carefully considered at the time when this enlarged Council was constituted. It was found that by a process of extreme compression the Members of the Council might just be got into the room, but it would be with extreme discomfort, and that it would neither be properly ventilated or lit, and there would not be adequate room for the staff of the Council, and for the public and the reporters, and, accordingly, that suggestion had to be given up. We shall continue to look for reasonable means of providing really suitable accommodation for the Council, but it must obviously be a matter of great expense, and perhaps the Council will agree that in comparison with some of the objects which they have been urging on Government their own housing is rather in the nature of a luxury. In the meantime, if the present Chamber is not an entirely suitable place, yet there is adequate space and light and air, and we cannot regard an improvement in this direction as one of our most urgent requirements."

The PRESIDENT said:—

"Gentlemen of the Council,—It is not my intention to say more than a very few words on the present occasion. This is no doubt a departure from past practice. But it is a departure which is fully justified. Under the new constitution, as has been pointed out more than once, the justification for a discussion ranging over the whole field of administration has disappeared. It is now open to Hon'ble Members to raise a discussion on almost any question of public interest at any meeting of Council throughout the year, and this privilege is being freely availed of. There is, therefore, no need to concentrate such discussions into the debate on the budget. Nor is this all Even as regards the budget itself, using the word in the widest sense, there are two other occasions on which it comes under discussion. The first of these is when the first edition of the estimates is laid before the Finance Committee. The second is when the second edition of them, technically known as the Financial Statement, is presented to, and discussed by, the Council as a whole. Now it is at these two stages that discussion and suggestions for alteration in the figures can be really effective; and it is well known that when the final edition comes before us, the time for making changes has passed, and the rules do not permit of any resolutions being moved. It is clear, therefore, that the need for a general discussion at this present stage, if there be such need, stands on quite a different footing from before. I have even seen it suggested in the press that there is no real object in having this debate at all, and that Hon'ble Members themselves will come to see that it may be dropped without loss to anyone. I doubt whether we have come to that yet; but I certainly think that we seem to be moving in that direction.

"Now, with regard to the Finance Committee, the Hon'ble Mr. Duke has already explained what our attitude is, and he has made it clear that the breach of rule that occurred on the present occasion was inevitable We have already acknowledged that the present arrangements are not perfect, and we have undertaken that in the course of the year we shall endeavour to devise some means by which more time shall be allowed for the consideration of the figures, and generally to make the task of the Hon'ble Members easier than at present. The great difficulty, of course, arises from the fact that our dates for the various stages are necessarily dependent on those of the Imperial budget, in which all Provincial budgets are incorporated. If it were possible to exclude the latter altogether from the Imperial budget, it would not be difficult to do what the Hon'ble Members desire; but I am not very sanguine that such a course would commend itself to the Government of India or the Secretary of State. I know from my experience of the Finance Department of the Government of India that that department would be disposed to set its face against it.

"Two Hon'ble Members have alluded to the fact that while the aggregate of the budget is nearly six crores of rupees, yet the total sum which came

under the consideration of the Finance Committee was under six lakhs. The Hon'ble Mr. Duke has given an explanation which is perfectly clear. The proportion is certainly very small. If the special grants for Education and Sanitation had been intimated to us at an earlier stage, it would have been much larger. But I doubt whether under any system that is within the sphere of practical politics, it can ever be very large. There is no escape from the plain fact that by far the largest part of the expenditure of Government, especially of the recurring expenditure, is fixed and obligatory, and is not susceptible of modification, except very gradually. That must be the case in every country in the world; and even in the House of Commons, although the whole of the public expenditure is open to discussion and has to be voted, except charges against the Consolidated Fund, yet I imagine that the items which are actually open to modification are much smaller than is commonly supposed. We may certainly hope that larger sums will be available hereafter under the new and improved settlements, but I have no expectation that their relative proportion to the sum total of the budget will ever be very great.

The only other matter to which I desire briefly to refer is the coming Coronation Durbar at Delhi. The Hon'ble Mr. Duke has explained what the provision of three lakhs is intended for, and he has also explained that there is no provision so far for expenditure within the Province. All Hon'ble Members who have referred to this matter have expressed approval of the expenditure which it is proposed to incur upon it; and some have entertained fears lest the budget grant of three lakhs should prove inadequate. I fear that there is some ground for this apprehension. We have quite recently compiled our detailed estimates of the probable cost of the two camps by which Bengal will be represented, and have submitted them to the Government of India; and it is true that the aggregate gross cost seems likely to considerably exceed that figure, though there will, no doubt, be substantial recoveries on the other side. This will, no doubt, receive careful consideration by the Government of India. In the meantime, I rejoice to notice the loyalty and enthusiasm with which Hon'ble Members have received the announcement of the visit of Their Gracious Majesties, and I do not doubt that, whether it be in Delhi or at Calcutta, everyone in this Chamber, no less than the whole population of this great province, will strive their utmost to accord to Their Majesties a reception which shall be worthy of the august occasion.

Gentlemen, our session is at its close. It has not been a very heavy one owing to the postponement of the Calcutta Improvement Bill until the rains session. I wish you all a pleasant vacation, and trust that when we meet in August next, as I understand it will be, when the discussion of the Calcutta Improvement Bill comes on, we shall find that there will be a very much smaller number of points for dispute than has hitherto been suggested.

The Council was then adjourned *sine die*.

CALCUTTA, F. G. WIGLEY,

The 10th April, 1911. *Secretary to the Bengal Legislative Council.*

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Saturday, the 22nd July, 1911, at 11 A.M.

Present.

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble Mr. S. L. MADDOX.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. F. L. HALLIDAY, M.V.O. C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MAHARAJA SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble MR. H. J. HILARY.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

[*The President.*]

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble BABU BRAJA KISHOR PRASAD.

The Hon'ble BABU BAL KRISHNA SAHAY.

OATH OF ALLEGIANCE.

The Hon'ble Mr. Bompas, the Hon'ble Mr. Halliday and the Hon'ble Mr. Hilary made the prescribed oath of their allegiance to the Crown.

THE PRESIDENT'S ADDRESS.

The PRESIDENT said :—

"GENTLEMEN OF THE COUNCIL.—I have to welcome you at the commencement of another session. I am sure that the cause which has put me temporarily in the place of Sir Edward Baker must be a subject of regret and concern to all of you, that you sympathize with him in the personal and domestic troubles which have compelled him most unwillingly to take leave at the present time, and that you join me in the hope that, before the commencement of another session, he will have returned in renewed strength and vigour to preside over your deliberations. In the meantime, the Council has to get through an important programme of legislation, and I fear that we shall

[*Rai Baikuntha Nath Sen Bahadur; Mr. Cumming.*]

particularly miss his guidance in the most important item of it—a subject with which he was peculiarly familiar and well qualified to deal. The business of Government has, however, to be carried on continuously in spite of changes of individuals, and I am sure the best efforts of all of us will be given to deal worthily and adequately with the measures before us.

"We have, in the first instance, to deal with some alterations in the Rules of Business of the Council itself, which the experience, already gained, of the working of our present enlarged Council has shown to be necessary. It is hoped that these will simplify the work both of Government and of individual Members, and will promote the convenience and save the time of the Council at large.

"We have next a small measure of amendment to the Chota Nagpur Encumbered Estates Act, which, it is hoped, will be passed into law in the current session.

"We have, then, the Bengal Local Government Bill which is designed to make the formal changes in the law, which have been rendered necessary by the conversion of the Government into a Government in Council.

"We have also the Orissa Tenancy Bill—a very important measure—codifying and amending the Landlord and Tenant law in the districts of the Orissa Division. This, however, will demand very full consideration, and it is not proposed to proceed with it in the current session.

"Last and most important, we have the Calcutta Improvement Bill which has been adjourned from the last session and which, I hope, has now reached its final stage. This measure has now been before Government for a great number of years, and I trust that we shall be able to pass it into law and so allow the much-needed improvements to the city of Calcutta to be taken up without further delay."

QUESTIONS AND ANSWERS.

THUMB IMPRESSIONS IN REGISTRATION PROCEEDINGS.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

I.—(*a*) Is the Government aware that the practice of taking thumb impressions by registering officers of executants of documents who can write, but who are not personally known to the said officers, is a source of great discontent?

(*b*) Is the Government aware of the great discontent which exists on account of thumb impressions being taken by registering officers of *purdanashin* ladies, executants of documents who can write, and regarding whose identification there can be no doubt or room for suspicion?

(*c*) Will the Government be pleased to state whether it intends to make an inquiry and modify rule 53 of the rules promulgated by Notification No. 1439, dated the 2nd March, 1911, under section 69 of the Indian Registration Act, 1877, and published in the Calcutta Gazette of the 8th March, 1911?

The Hon'ble Mr. Cumming replied:—

(*a*) "The rule to which the Hon'ble Member refers was republished in Notification No. 1439, dated the 2nd March, 1911, and has been in force ever since it was originally introduced by Sir Henry Cotton in 1895. The system of identification by means of thumb impressions is admittedly the best possible, as it reduces to a minimum all chances of false personation. Criminal cases of this kind in respect of registration are now very much less frequent than they were in the years before the rule was introduced. Government is not aware that any discontent is caused by the application of the rule in question, which gives to a registering officer discretion to dispense with the system in the case of persons of position regarding whose identification there can be no doubt or room for suspicion, even if the executant is not personally known to him.

[*Rai Baikuntha Nath Sen Bahadur; Mr. Cumming; Babu Deba Prasad Sarbadhikari.*]

(*b*) Nor is Government aware that any discontent exists on account of the provision made in the same rule that *purdanashin* ladies are in all cases required to affix the impression of their thumb marks as evidence of their identification. The rule does not insist that in their case the impression shall invariably be taken before the registering officer, but allows as an alternative that it be taken in the presence of the persons who identify them. The rule was introduced in 1895 as a very necessary safeguard in the interests of *purdanashin* applicants, and has been found to work well.

(*c*) The answer is in the negative."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR asked the following supplementary question:—

"Will the Government be pleased to state the reasons for insisting upon the thumb impressions of *purdanashin* ladies who can write and regarding whose identity there cannot possibly be any doubt or suspicion?,'

The Hon'ble MR. CUMMING said:—

"I must ask for notice of that question from the Hon'ble Member."

APPOINTMENTS AND VACANCIES IN THE EDUCATIONAL SERVICE

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

II.—(*a*) Has the attention of the Government been called to the statement in the *Sanjibani* newspaper of Thursday, the 6th of July, 1911, to the effect that the proposal to appoint Dr. P. C. Ray to the Indian Educational Service in the place of Mr. Hallward (who has been appointed Director of Public Instruction, Eastern Bengal and Assam) has not been given effect to and that he has been appointed to the said service temporarily with Rs. 100 as personal allowance?

(*b*) Would the Government be pleased to state whether there has been a proposal for his permanent appointment to the Indian Educational Service and whether it has been given effect to?

(*c*) If it has not been given effect to, would it please the Government to state the reasons for not giving effect to the proposal and what has been done instead?

The Hon'ble MR. CUMMING replied:—

(*a*) "Government has seen the article to which reference has been made.

(*b*) and (*c*) Government has made no formal proposal for the substantive promotion of Dr. P. C. Ray to the Indian Educational Service. Dr. Ray, for the present, has been appointed to act in the Indian Educational Service under the ordinary rules, in the vacancy arising from the deputation of Mr. Hallward to Eastern Bengal and Assam, quite independently of any such proposal as is suggested in the question."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked:—

III.—(*a*) Has the attention of the Government been called to the statement in the same newspaper that Mr. Griffith has been appointed to the Indian Educational Service?

(*b*) Is this information correct, and, if so, would the Government be pleased to state when he was so appointed?

The Hon'ble MR. CUMMING replied:—

(*a*) "Government has read the further statement to the effect that Mr. Griffith has been appointed to the Indian Educational Service.

(*b*) The information is correct. Mr. Griffith has been appointed to the Indian Educational Service with effect from the 26th February, 1911."

Babu Deba Prasad Sarbadhikari; Mr. Cumming; Mr. Stevenson-Moore; Babu Bal Krishna Sahay.]

The Hon'ble BABU DEBA PRASAD SARBADHIKARI asked :—

IV.—Would the Government be pleased to state the number of present vacancies, officiating and permanent, in—

(1) the Indian Educational Service, and

(2) the Provincial Educational Service ?

The Hon'ble MR. CUMMING replied :—

"In the Indian Educational Service there are eight permanent and three officiating vacancies. In the Provincial Educational Service there are seven permanent vacancies and one officiating."

ENTERTAINMENT OF THEIR MAJESTIES THE KING EMPEROR AND QUEEN EMPRESS DURING THEIR VISIT TO CALCUTTA

The Hon'ble BABU DELA PRASAD SARBADHIKARI asked :—

V.—(*a*) Would the Government be pleased to state what provisions and arrangements have been made by the Government for the reception and entertainment of their Gracious Majesties the King-Emperor and the Queen Empress at Calcutta ?

(*b*) Does the Government propose to contribute any sum towards the Funds of the Imperial Reception Committee, Calcutta, worthy of the occasion, over and above provisions and arrangements mentioned in question V(*a*) that it may itself have independently made ?

(*c*) If so, will such sum be Rs. 50,000 or more or less ?

The Hon'ble MR. STEVENSON-MOORE replied :—

(*a*) "A programme of arrangements for the reception and entertainment of their Most Gracious Majesties at Calcutta is at present under preparation. The programme requires the sanction of His Majesty, and this Government is not at present authorised to make any announcement on the subject.

(*b*) and (*c*) Until the programme for the whole visit to Calcutta has been settled, Government is not in a position to state whether it will be prepared to make any contribution towards those entertainments for which the Imperial Reception Committee will make itself responsible."

MAGISTERIAL VAGARY.

The Hon'ble BABU BAL KRISHNA SAHAY asked :—

VI.—(*a*) Has the attention of the Government been drawn to an editorial paragraph headed "Magisterial Vagary", published in the *Beharee* of the 5th May, 1911, purporting to contain extracts from a judgment of the Sessions Judge of Shahabad in Criminal Appeal No. 52(D) of 1911, dated the 1st March last, reflecting upon the conduct, as a Judicial officer, of Maulvi Abul Hayat, the Magistrate, whose judgment was under appeal before the Sessions Judge ?

(*b*) Will the Government be pleased to state if the extracts reproduced in the *Beharee*, do, as a matter of fact, appear in the judgment of the Sessions Judge ?

(*c*) If so, does the Government intend to take any steps in the matter, and, if so, what ?

The Hon'ble MR. STEVENSON-MOORE replied :—

(*a*) The answer is in the affirmative.

(*b*) The answer is in the affirmative.

(*c*) The Deputy Magistrate has been called on for an explanation. On its receipt Government will decide what action, if any, is necessary.

AMENDMENTS IN THE RULES FOR THE CONDUCT OF THE LEGISLATIVE BUSINESS OF THE BENGAL LEGISLATIVE COUNCIL.

The Hon'ble Mr. Slacke moved that, for rule 2 of the Rules for the Conduct of the Legislative Business of the Bengal Legislative Council, the following be substituted, namely:—

Definitions. 2. In these rules,—

(1) "Council" means the Bengal Legislative Council;

(2) "President" means—

(*a*) the Lieutenant-Governor, or

(*b*) the Vice-President appointed by the Lieutenant-Governor under section 4 of the Indian Councils Act, 1909,

(3) "the Secretary" means the Secretary to the Bengal Legislative Council; and

(4) "Bill" means a proposed Act before it has received the assent of the Lieutenant-Governor.

He said:—

"The necessity for substituting this proposed rule in lieu of the present rule is in order to enable the existing rules in the Bengal Legislative Council Manual to be brought into accord with existing facts, because at present there is a Secretary and also an Assistant Secretary, and the Indian Councils Act, 1909, has also to be allowed for."

The motion was put and agreed to.

The Hon'ble Mr. Slacke moved that in rules 18, 19, 20, 21, 28, 29, 30, 37, 45, 48, 50, 51 and 54, and in the heading over rule 48, of the same rules, for the words "Assistant Secretary", wherever they occur, the word "Secretary" be substituted.

He said:—

"This is merely consequential on what has just now been assented to by the Council."

The motion was put and agreed to.

The Hon'ble Mr. Slacke moved that, in rule 51 of the same rules, before the word "any" the words "the Assistant Secretary to the Council or" be inserted.

He said:—

"This is in order to enable the Assistant Secretary to do the work of the Council in the event of the Secretary not being able to be present."

The motion was put and agreed to.

The Hon'ble Mr. Slacke moved that, for the first paragraph of rule 22 of the same rules, the following be substituted, namely:—

(1) Any Member who wishes to move an amendment to any Bill to be brought before the Council must send notice of such amendment so as to reach the Secretary at least five days before the first day on which such Bill is to be taken into consideration by the Council.

Provided that the President may, in his discretion, in the case of any Bill, direct that longer notice, not exceeding a maximum period of fifteen days, shall be required.

(2) When any direction is given by the President under the proviso to sub-rule (1), a copy of such direction and (if it has not already been sent) a copy of the Bill, with Statement of Objects and Reasons, must be sent by the Secretary to each Member at least as many days before the commencement of the time required for sending in the notice as the term of the notice consists of.

(3) If any Member is not furnished with such copies within the period specified in sub-rule (2), he must report the omission to the Secretary without delay, and the President may, in his discretion, on the omission being represented to him by the Secretary, allow such Member shorter notice than that prescribed in the said direction.

[*Mr. Slacke; Rai Baikuntha Nath Sen Bahadur; Mr. M. S. Das.*]

He said:—

"Experience has shown that, in the revised Council, it is practically impossible for the Secretary and Assistant Secretary, working as hard as they could, to deal with the amendments with regard to any Bill of a contentious nature within the time-limit, viz., three days.

"Especially that was the case with the Calcutta Improvement Bill, and I can personally testify to the fact that, work as hard as he did, from early morning till late at night, the Secretary could not cope efficiently with the numerous amendments which were put in. It is, therefore, with a view to preventing a similar state of affairs recurring in the future, and to enable the Council to have put before them the amendments in a proper shape, that this is now being presented to the Hon'ble Members for their acceptance. I would therefore ask the Members to adopt the rule."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said:—

"Sir, I have only one suggestion to make. Cannot the word 'first' be left out of the proposed sub-rule (*1*)? Then the rule will run thus—'at least five days before the day on which such Bill is to be taken into consideration by the Council'. A Bill may not be disposed of at one meeting; and may have to be considered at another. Then the question might arise, whether Members would be debarred from moving or suggesting any amendments. But if the word 'first' be left out, the rule would run—'at least five days before the day', etc., and there would be no room for ambiguity. I leave it to the Hon'ble Member's consideration."

The Hon'ble Mr. Slacke said:—

"I cannot accept the Hon'ble Member's suggestion, because if a Bill was to run on for several days consecutively, the same pressure might be brought to bear on the Secretary's office, whereas the case to which the Hon'ble Member refers would be met by the clause, that the President may admit any amendment which the Hon'ble Member wishes to put forward without formal notice. It is not improbable that any amendment which was of any consequence would be refused by the President, whereas to accept the Hon'ble Member's proposal would be to leave the way open still for that pressure on the Secretary's office, which the past has shown he cannot possibly meet."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said:—

"I was not speaking of a Bill which would be taken up from day to day. But my observations referred to a Bill which might be postponed for another meeting, and I do not see what possible objection there can be to my motion. It would not give Members larger powers, or give them an opportunity to abuse those powers."

The Hon'ble Mr. M. S. Das said:—

"Your Honour, there have been actual cases within my personal experience in this Council and in Select Committees, that when a Bill originally came before the Council, perhaps certain amendments were not considered necessary, but when the Bill was circulated, certain amendments were thought necessary, and again, when the Bill had undergone certain modifications, some more amendments were thought necessary. It is not possible for a Member to foresee these amendments. For cases like these, I think, Your Honour, there should be an exception. When an amendment becomes necessary, in consequence of certain amendments having been made in the original Bill, such a case would be an exception. The original Bill might have been consistent, but when one part has been amended, a subsequent amendment might be necessary, and such amendment may be considered necessary even by the Hon'ble Member in charge of the Bill. There have been cases like this in the Estates Partition Act when it was in Council last. I think there ought to be certain provisions for cases like these. I do not say what shape such provision should take—but there ought to be provisions, or else certain obvious amendments would be shut out."

[*Mr. Slacke; The President.*]

THE HON'BLE MR. SLACKE said:—

"I am afraid the Hon'ble Member's proposal comes too late, and that I do not see any chance of its being realised, because, under sub-rule (4), the President will certainly give leave to bring forward any amendment of the nature which he refers to, which is a consequential amendment."

The PRESIDENT said:—

"I think I should ask the Council to consider whether they should not pass the proposed rules as they stand. I would point out, with reference to what the Hon'ble Rai Baikuntha Nath Sen Bahadur has advanced, that the matter of a Bill proceeding on consecutive days is a very serious difficulty which could not be met if the word 'first' were cut out, that is to say, if the Bill is to be before the Council for five or six days, and if this word 'first' were cut out, an amendment would be admissible on the last day which had been moved upon the first, and the Secretary would still be required to continue, while the Council is actually sitting, to examine and prepare the amendments for the consideration of the Council. However, the Hon'ble Member has been good enough to say that he will be prepared to leave the matter in the hands of Government. I will merely point out that there is nothing necessarily final about these rules, that they are subject to revision in the Council at any time, and that if they are not found to work well, further proposals to amend them can always be considered. In the meantime, as they have been carefully thought out, and, at any rate, as they supply a remedy for the immediate trouble from which we have been suffering lately, I think the Council should consider whether they ought not to be passed as they stand at present."

The motion was then put and agreed to.

The Hon'ble Mr. Slacke moved that the second paragraph of rule 22 of the same rules be numbered as sub-rule (*5*), and that, for the first eleven words in that paragraph, the following be substituted, namely:—

"If any Member does not send notice of amendments by the time specified in sub-rule (*4*) or (*5*), and desires,"

He said:—

"This is consequential upon the one that has just been adopted by the Council."

The motion was put and agreed to.

The Hon'ble Mr. Slacke moved that, after sub-rule (*5*) of rule 22 of the same rules, the following be inserted, namely:—

"(*6*) Notwithstanding anything contained in sub-rule (*3*), (*4*) or (*5*), the Member in charge of any Bill may at any time, with the permission of the President, give notice to the Secretary of any amendments to any Bill which are consequential upon—

(*a*) any amendments of which notice has been given under sub-rule (*4*) or (*5*), as the case may be, or

(*b*) any amendments which the President, under sub-rule (*4*), permits to be put without notice at any meeting of the Council."

He said:—

"The object of this new rule is to save the Government consequential amendments from the operations of rules 1, 3 and 4."

The motion was put and agreed to.

The Hon'ble Mr. Slacke moved that the third paragraph of rule 22 of the same rules be numbered as sub-rule (*6*).

He said:—"This is necessary in consequence of the insertion of the rule to which the Council has just consented."

The motion was put and agreed to.

The Chota Nagpur Encumbered Estates (Amendment) Bill, 1911.

The Bengal Local Government Bill, 1911.

The Orissa Tenancy Bill, 1911.

[*Mr. Slacke; Mr. Greer.*]

The Hon'ble Mr. Slacke moved that for the second paragraph of rule 52 of the same rules, the following be substituted, namely :—

Application for order of admission is to be made through a Member, to the Secretary, at least two days before the meeting; and the order if made, shall be sent to such Member.

He said :—

"The object of this is in order to bring the rules relating to our Council into line with the rules which govern the Imperial Council."

The motion was put and agreed to.

THE CHOTA NAGPUR ENCUMBERED ESTATES (AMENDMENT) BILL, 1911.

The Hon'ble Mr. Slacke moved that the Bill further to amend the Chota Nagpur Encumbered Estates Act, 1876, be referred to a Select Committee consisting of the Hon'ble Mr. Greer, the Hon'ble Mr. Chapman, the Hon'ble Mr. Norman McLeod, the Hon'ble Babu Bal Krishna Sahay, the Hon'ble Rai Sita Nath Ray Bahadur and the Mover, with instructions to report within one month.

He said :—

"Sir, the Bill to amend the Chota Nagpur Encumbered Estates Act was introduced into Council on the 1st of April last and was then submitted to certain officials and non-official bodies for opinion. These opinions have been received, and it would appear from them that this Bill is a non-contentious measure.

The motion was put and agreed to.

THE BENGAL LOCAL GOVERNMENT BILL, 1911.

The Hon'ble Mr. Greer moved for leave to introduce a Bill to transfer certain functions of the Lieutenant-Governor of Bengal to the Lieutenant-Governor in Council.

He said :—

"I have the honour, Sir, to ask the Council for permission to introduce the Bengal Local Government Bill of 1911. The object of this measure is fully set forth in the statement of Objects and Reasons accompanying the Bill. It is to make provision for the discharge of the functions of the Lieutenant-Governor by the Lieutenant-Governor in Council, including the signing of papers and the validation of past proceedings. There is nothing contentious in the Bill which specially calls for the notice of the Council."

The motion was put and agreed to.

The Hon'ble Mr. Greer introduced the Bill and moved that it be read in Council.

The motion was put and agreed to, and the Secretary accordingly read the title of the Bill.

The Hon'ble Mr. Greer moved that the Bill be taken into consideration by the Council at the next meeting.

The motion was put and agreed to.

THE ORISSA TENANCY BILL, 1911.

The Hon'ble Mr. Slacke moved for leave to introduce a Bill to amend and consolidate certain enactments relating to the law of Landlord and Tenant in the districts of Cuttack, Puri and Balasore, in the Orissa Division.

[*Mr. Slacke; The President.*]

He said :—

"Sir, I rise to ask the permission of the Council to introduce the Orissa Tenancy Bill, 1911—a measure of considerable importance. In the Statement of Objects and Reasons, annexed to the Bill, will be found set out the facts which have led Government to cause this Bill to be prepared. Much thought and labour have been given to its preparation by the Hon'ble Mr. Maddox, and the advantage of consulting the opinions of those locally interested in the matter has been fully utilized. I shall assume that the Hon'ble Members have read the Statement of Objects and Reasons, and will therefore refrain from entering into the details which are therein set out, merely adding that later on it is proposed to introduce some sections dealing with communal lands."

The motion was put and agreed to.

The Hon'ble Mr. Slacke introduced the Bill and moved that it be read in Council.

The motion was put and agreed to, and the Secretary accordingly read the title of the Bill.

The PRESIDENT said :—

"Before adjourning Council I wish to mention that in accordance with the rules which have just been passed, the period of notice for amendments in the case of the Calcutta Improvement Bill, which will be taken up at the next meeting of Council, will be 10 days. Of course a formal notice will be issued, and according to the rules which have been passed, if the period of notice of amendments is to be 10 days, the actual formal notice must be given 20 days beforehand. At present it is 24 days before the next meeting.

"I have to mention also that the portrait of Sir Edward Baker, which was subscribed for by Members of Council, and was painted by Mr. Onslow Ford, has been completed, and is hanging at the top of the staircase at the main entrance, where it may be inspected by Members who desire to see it."

The Council was then adjourned to Tuesday, the 15th August, 1911, at 11 A.M.

F. G. WIGLEY,

Secretary to the Bengal Legislative Council.

CALCUTTA,
The 26th July, 1911.

B. S. Press—31-7-1911—1264J—320—J. L. C.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Tuesday, the 15th August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE

The Hon'ble Mr. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. F. L. HALLIDAY, M.V.O., C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MR H. J. HILARY.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble LT.-COL. G. GRANT-GORDON, C.I.E.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Honble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble BABU BRAJ KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

OATH OF ALLEGIANCE.

1. The Hon'ble Mr. D. J. Macpherson and the Hon'ble Mr. Payne made the prescribed oath of their allegiance to the Crown.

[*Rai Baikuntha Nath Sen Bahadur; Mr. Cumming; Maulvi Saiyid Muhammad Fakhr-ud-din.*]

2. QUESTIONS AND ANSWERS.

THUMB IMPRESSIONS OF *PARDANASHIN* LADIES IN REGISTRATION PROCEEDINGS.

The Hon'ble Rai Baikuntha Nath Sen Bahadur asked:—

I.—Will the Government be pleased to state the reasons for insisting upon thumb impressions of *purdanashin* ladies who can write and regarding whose identity there cannot possibly be any doubt or suspicion? [1]

The Hon'ble Mr. Cumming replied:—

"The matter, which is raised by the Hon'ble Member, was considered in 1894 and again in 1895. It was decided in those years that the exemption which is allowed to male executants, regarding whose identification there can be no doubt or room for suspicion, even when not personally known to the Registering Officer, should not be allowed in the case of *purdanashin* ladies. The reasons which impressed the Government of that day were that the personation of *purdanashin* ladies was extremely easy, and that special safeguards were necessary to protect their interests. Thumb impressions provide a test of practically scientific certainty, and during the long period that the system has been worked, no complaints have been made against it. The present Government considers that the reasons which prevailed 16 years ago still persist, and that it is its duty to maintain the protection of this class of executants against false statements of identification, and forgery of signatures."

SURVEY AND SETTLEMENT OPERATIONS IN BIHAR.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din asked:—

II.—(*a*) Is the Government aware of the representation submitted by the Bihar Landholders' Association, Bankipore, on the 5th April, 1911, relating to the grievances of the people of Bihar against the survey and settlement operations in Bihar?

(*b*) Has the Government taken any steps to make any inquiry into the matter? If so, with what result?

(*c*) Does the Government intend to take any steps to redress the grievances?

The Hon'ble Mr. Cumming replied:—

"(*a*) The answer to this question is in the affirmative.

(*b*) A report has been called for from the Director of Land Records, and is awaited.

(*c*) Government cannot intimate what steps, if any, will be taken in the matter until it has received and considered the report of the Director of Land Records."

HOSTEL ACCOMMODATION IN THE PATNA COLLEGE.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din asked:—

III.—(*a*) Is the Government aware that the present hostel accommodation within the Patna College is totally insufficient to accommodate all the intending boarders?

(*b*) Is the Government willing to extend the accommodation by the addition of new buildings?

The Hon'ble Mr. Cumming replied:—

"(*a*) Government is aware that the recently constructed hostel for Hindu students at Patna College is full, and that there is a demand for further accommodation.

(*b*) Proposals are at present under consideration for the construction of an additional hostel to accommodate over 40 students."

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[1] This is a supplementary question which was put by the Hon'ble Member at the meeting of Council held on the 22nd July, 1911. Notice of the question was required by the Member in charge and the question was put again and answered on the 16th August.

[*Maulvi Saiyid Muhammad Fakhr-ud-din; Mr. Cumming; Mr. Chapman.*]

NEW BUILDING FOR THE PATNA COLLEGIATE SCHOOL.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked:—

IV.—(*a*) Is the Government prepared to make a new suitable building for the Patna Collegiate School?

(*b*) If so, what site has been selected for the purpose, and when is the building likely to be constructed?

The Hon'ble MR. CUMMING replied:—

"(*a*) Government is aware that the present quarters for the Patna Collegiate School are not altogether satisfactory. They are held on a short lease, which expires next year. The arrangement is only temporary, and it is the intention, as soon as funds are available, to construct buildings for the school.

(*b*) The site to be selected has not yet been finally determined, nor can it be said at this stage when the building is likely to be constructed"

PATNA COLLEGE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked:—

V.—(*a*) Has the attention of the Government been drawn to an article headed "Patna College" in the *Behares*, issued from Bankipore on the 28th July, 1911?

(*b*) If so, will the Government be pleased to state how far the statements contained in the said article are correct?

(*c*) If the statements are correct, will the Government be pleased to state the reasons for adopting such a course, and who is responsible for the same?

The Hon'ble MR. CUMMING replied:—

(*a*) "The answer is in the affirmative.

(*b*) *and* (*c*) The Professor of History at Patna College started a private class in History Honours in July, 1910, without the knowledge or authority of the Principal. The matter was only brought to the notice of the Principal in April, 1911, and he then asked the Director of Public Instruction to submit an application for affiliation to the Syndicate. The Director of Public Instruction, however, in view of the fact that a similar application had been recently rejected by the Syndicate, and that in the meantime the staff had not been appreciably strengthened, was unwilling to submit the application."

CREATION OF A NEW GRADE OF MUNSIFS.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked:—

VI.—Will the Government be pleased to state if the creation of a new grade of Munsifs, on a pay of Rs. 500 a month, is still under the consideration of the Government of India, or has the matter received any final and definite decision?

The Hon'ble MR. CHAPMAN replied:—

"The proposal to create a new grade of Munsifs on Rs. 500 was negatived by the Government of India in 1909. Since then the Government of India have not been addressed again by this Government on the subject."

MAINTENANCE GRANT TO COLLEGES.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked:—

VII.—Will the Government be pleased to state the amount of the maintenance grant allowed to each of the colleges in this province in the current year, as also the contributions from private sources in each of them?

[*Mr. Cumming; Maulvi Saiyid Muhammad Fakhr-ud-din; Babu Braj Kishor Prasad.*]

The Hon'ble Mr. CUMMING replied:—

"The amount of the maintenance grant has not yet been determined for all colleges. A statement which gives the information, as far as it is available, is laid on the table."

Statement referred to in the Answer by the Hon'ble Mr. Cumming to Question No. VII asked by the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

STATEMENT OF MAINTENANCE GRANTS TO COLLEGES, 1911-1912.

Name of College.	Annual grant	Receipts from private sources.		
		Fees.	Other sources.	Total.
	Rs.	Rs.	Rs.	Rs.
St. Columba's College, Hazaribagh ...	12,000	2,880	1,308	4,188
Scottish Churches College, Calcutta ..	22,000	53,490	74,088	1,27,488
St. Xavier's College, Calcutta ...	5,400	15,240	5,664	20,904
Wesleyan Mission College, Bankura ...	3,600	6,960	5,568	12,528
Bihar National College, Bankipore ...	4,800	8,951	5,192	14,143
Daulatpur Hindu Academy ...	3,000	3,240	3,060	6,300
L. M. S. Institution, Bhowanipur ..	3,000	1,708	3,340	5,048

NOTE.—The maintenance grants for the current year have not yet been determined in the case of all the colleges concerned notably the Bangabasi, the Midnapore and the Tirhut Colleges. But so far as they are available, figures are provided with regard to those grants which have been sanctioned. In certain cases the grants were determined prior to the current year and sanctioned for a period of years. The sums entered in respect of fees and other contributions from private sources are the actuals for the year preceding that in which the grant now current was sanctioned.

TROUBLE IN THE PATNA COLLEGE.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN asked.—

VIII.—(*a*) Is it a fact that the Principal of the Patna College ordered his students to work with the ordinary hired coolies in pulling the roller for levelling the play-ground?

(*b*) It is a fact that one of the students has been rusticated for a month on account of his refusal to work with the coolies, and that others have been threatened with similar punishment?

The Hon'ble Mr. CUMMING replied:—

"(*a*) The answer is in the negative.

(*b*) The answer is in the negative."

PAYMENT OF LATRINE TAXES.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

IX.—(*a*) Will the Government be pleased to state if it is aware of the fact that, according to the provisions of the present Bengal Municipal Act (Ben. Act III of 1884), in many municipalities in the district of Bihar, latrine-rates are levied from many holdings which are merely huts having no latrines at all, the occupants of them being mostly poor people who cannot afford to have latrines in their houses?

(*b*) Will the Government be pleased to state if it is aware of the fact that such levying of latrine-rates from such holdings works great hardship on the poor people?

(*c*) Will the Government be pleased to state if it is aware that the local, official and non-official opinions, in the said municipalities, are against such levying of latrine-taxes?

(*d*) If the Government be not aware of the aforesaid facts, does it intend to make an inquiry into, and to call for the opinions of local authorities and Municipal Boards and other public bodies on the subject?

(*e*) Will the Government be pleased to state if it intends to take any action in the matter and to amend the provisions of the Bengal Municipal Act (Ben. Act III of 1884) on the subject?

[*Mr. Wheeler; Babu Braj Kishor Prasad; Mr. Cumming.*]

The Hon'ble MR. WHEELER replied:—

"(*a*) Government is not in possession of any information as to the classes of holdings upon which rates under Part IX of the Municipal Act are levied in Bihar.

(*b*) A general inquiry was made in 1904 as to the sufficiency of the existing legal provisions permitting exemptions from this taxation, and some opinions were then expressed to the effect that they were inadequate.

(*c*) Government is not aware whether the general statement made is accurate or not.

(*d*) Government does not intend to make further inquiry.

(*e*) Proposals to amend the Municipal Act, so as to give power to exempt the very poor from taxation under Part IX, were submitted to the Government of India in 1905. They are pending the general amendment of the Act."

THE ELECTIVE PRINCIPLE IN THE CONSTITUTION OF LOCAL BOARDS.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

X.—(*a*) Will the Government be pleased to state what Associations or public bodies, or what persons, in the Tirhut Division have been consulted by it on the subject of its inquiry as to whether the principle of election should be introduced in the constitution of Local Boards?

(*b*) Will the Government be pleased to state whether it intends to invite the opinions of other Associations and public bodies, and also of representatives of the people, besides the District Boards, on the subject of the said inquiry?

The Hon'ble MR. WHEELER replied:—

"(*a*) The Commissioner of the division has been asked to report, in consultation with the District officers concerned and representatives of public opinion. The subject will also be discussed at the Commissioners' Conference at which non-official representatives are ordinarily present. The selection of the persons, to be consulted locally, rests with the Commissioner and District officers.

(*b*) Government has no intention of interfering with the discretion of the local officers as to the persons whom it may be suitable to consult."

ELEMENTARY EDUCATION BILL.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

XI.—(*a*) Will the Government be pleased to state what Associations or public bodies, if any, in the Tirhut Division have been asked by it to express their opinions on the Elementary Education Bill of the Hon'ble Mr. Gokhale, which is pending in the Imperial Legislative Council?

(*b*) Will the Government be pleased to state if it has called for the opinions of the Municipal and District Boards of the Tirhut Division on the said Bill?

(*c*) If not, will the Government be pleased to state its reasons?

The Hon'ble MR. CUMMING replied:—

"(*a*) The Tirhut Landholders' Association has been invited to express its opinion on the Elementary Education Bill.

(*b*) *and* (*c*) The opinions of the Municipalities and District Boards of the Tirhut Division were not called for direct. It was recognized that the Commissioners of divisions, who were asked to report, would consult these bodies within their respective divisions. It is not usual for Government to consult the Chairmen of Municipalities or District Boards direct."

[*Babu Braj Kishor Prasad; Mr. Chapman.*]

LOCATION OF AN ADDITIONAL JUDGE OR A SUBORDINATE JUDGE AT MOTIHARI.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

XII.—(*a*) Will the Government be pleased to state the respective numbers of civil suits, including miscellaneous cases of the value of above Rs. 1,000, and of suits of the value of above Rs. 100, which could be tried by a Court of Small Causes, and of civil appeals, arising from the district of Champaran, in each of the years from 1895 to 1910?

(*b*) Will the Government be pleased to state the approximate average number of civil suits and civil appeals which a Subordinate Judge ordinarily tries during the course of a year?

(*c*) Will the Government be pleased to state the circumstances and reasons that led it, in the year 1901, to locate the court of a Subordinate Judge at Motihari, in addition to the two courts of Munsifs which were already existent there?

(*d*) Will the Government be pleased to state the circumstances and reasons that led it, in the year 1903, to withdraw the said court of the Subordinate Judge from Motihari?

(*e*) Is the Government aware that, at Motihari, there is at present only one court, viz., a Munsif with the ordinary powers to try suits up to the value of Rs. 1,000 only which causes great inconvenience to the litigant public there?

(*f*) Will the Government be pleased to state if it has received a memorial or representation from the people of Champaran, praying for the location of the court of an Additional Judge, or a Subordinate Judge vested with the powers of an Assistant Sessions Judge, and also empowered to hear civil appeals, at Motihari?

(*g*) Will the Government be pleased to state what action, if any, it has taken on the said memorial?

The Hon'ble MR. CHAPMAN replied:—

(*a*) "The District Judge has been requested to supply the figures asked for. When received, they will be furnished to the Hon'ble Member.

(*b*) The average number of civil suits and civil appeals disposed of by a Subordinate Judge in 1909 were 316 and 170, respectively.

(*c*) & (*d*) In 1901, a Subordinate Judge was, on the recommendation of the High Court, deputed, as a tentative measure, from Chapra to Motihari. He was sent back to Chapra on administrative grounds in 1903, as the file of each of the two Subordinate Judges at the latter place was heavier than that of the Subordinate Judge at Motihari.

(*e*) Two Munsifs are ordinarily posted at Motihari. One is now on deputation to Sitamarhi. The Government is not aware that great inconvenience to the litigant public has resulted. An inquiry is being made from the District Judge.

(*f*) & (*g*) Yes; a memorial has been received and has been forwarded to the District Judge, Muzaffarpur, for a report."

ALLEGED EXTORTION OF CONFESSIONS BY THE POLICE.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

XIII.—(*a*) Has the attention of the Government been drawn to an editorial paragraph appearing in the *Beharee* of the 9th June, 1911, under the heading "How the alleged confession was extorted"?

(*b*) Will the Government be pleased to state whether the confession of the accused in the Neora train-wrecking case was extorted by the police, and

if so, whether the *Beharee's* account of the circumstances and the manner in which it was extorted, is correct?

(*c*) Considering the serious nature of the case and the clear and definite allegations made in the said paragraph as to the manner in which the confession was extorted, will the Government be pleased to state whether they intend to make any inquiry into the matter?

The Hon'ble MR. CUMMING, in the absence of the Hon'ble MR. STEVENSON-MOORE, replied:—

(*a*) "The answer is in the affirmative.

(*b*) *and* (*c*) Proceedings against Abdul Majid being still *sub judice*, Government is not prepared to make any statement in the matter."

THE CHOTA NAGPUR ENCUMBERED ESTATES (AMENDMENT) BILL, 1911.

3. The Hon'ble Mr. Slacke presented the Report of the Select Committee on the Bill further to amend the Chota Nagpur Encumbered Estates Act, 1876.

4. The Hon'ble Mr. Slacke moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

5. The Hon'ble Mr. Slacke moved that the Bill be passed.

The motion was put and agreed to.

THE BENGAL LOCAL GOVERNMENT BILL, 1911.

6. The Hon'ble Mr. Greer moved that the Bill to transfer functions of the Lieutenant-Governor of Bengal to the Lieutenant-Governor in Council be passed.

The motion was put and agreed to.

THE BENGAL MINING SETTLEMENTS BILL, 1911.

7. The Hon'ble Mr. Cumming moved for leave to introduce a Bill to provide for the sanitation of mining settlements in Bengal.

He said:—

"Sir, I beg leave to introduce the Bengal Mining Settlements Bill. A few words of explanation are due to Hon'ble Members before the question is put. First of all, the existing facts regarding the coal-mining areas in Bengal have to be stated; next, the problem to be solved; and then, the solution which commends itself to the Bengal Government.

"The facts are that a large coal industry has come into being and has rapidly developed, and that great numbers of labourers have settled in a limited area, while at the same time no comprehensive effort has been made to ensure the sanitation of the area, either in the direction of conservancy or of water-supply or of vaccination. Within the compact Jharia field, in the north of the Manbhum district, there are 193 mines, employing nearly 60,000 workers, with an annual output of five and three-quarter million tons of coal; and the Raniganje field has nearly 40,000 workers and raises over four million tons. Inquiries have been made from time to time by medical and sanitary officers of Government, and the paramount necessity of bringing the mining tracts within sanitary control has been urged both by these officers and by the

Indian Mining Association. Outbreaks of plague, of cholera and small-pox have resulted in regrettable loss of life This is bad for the people and bad for the industry. Amongst the owners of the coal mines there are some who, from enlightened self-interest, take measures for the sanitary protection of their own areas, but they have justification for the complaint that their neighbours do not take similar measures, and that there is no authority to compel them to do so. There is the further difficulty that there are some surface lands which are not under the control of coal-mine owners. Proposals to appoint union committees under the Local Self-Government Act, to extend the Municipal Act, and to proceed under the Epidemic Diseases Act have been made and have been examined; but all these expedients have been found impracticable. Besides, the Indian Mines Act gives no authority for dealing with surface sanitation in miners' villages; and an amendment of that Act was considered and rejected.

"What then is the problem? It is to devise a means of ensuring sanitation in the coal-fields of this province by the constitution of an authority which would have jurisdiction over land-owners as well as over coal-mine owners, which would take charge of the public health in all its aspects within these areas, and which would be able to meet the cost of its special services by means of a local levy from those who are directly interested. In other words, the problem is the creation of some central authority. It is a novel problem to some extent, and therefore its solution had to be found outside ordinary practice As Bengal raised last year more than nine-tenths of the total output of coal for the whole of India, it is also a local problem.

"The Bengal Government have, in this matter, to express their indebtedness for the willing and helpful co-operation of the Indian Mining Association. The solution which the Bengal Government now put forward, with the approval of the Government of India, is that, for each mining district, a Mines Board of Health should be constituted, containing representatives of interests both above and below ground; that this Board should, after proper inquiry, select specific areas, to be called mining settlements, which require to be brought under sanitary control; that there should be a sanitary officer or officers under each Board, who would advise on the necessities of the place as regards water-supply, housing, conservancy and the prevention of epidemics; that the Board should have the power to direct owners of mines or of lands to carry into effect measures of which the Board approves, either of its own motion or after accepting suggestions from the sanitary officer; that, if any measure be not undertaken, the Board may, after a warning notice, itself undertake the work; and that the cost of the establishment and other expenses of the Board shall be charged to coal mine owners and the receivers of royalties on coal in the same proportion in which they are liable under the Cess Act. These proposals have the merit of elasticity in view of the varying conditions of the area concerned, and also the merit of local control and of local assessment. I venture, Sir, to express a hope that if this Bill becomes law, the good example of enlightened owners will be contagious, and that, in the interests of the humble workers no less than in those of the coal mining industry, preventable causes of disease may be removed, and the insanitary conditions which in the vicinity of some mines are a menace to public health may be a thing of the past.

"I now beg formally to move that leave be given for the introduction of the Bengal Mining Settlements Bill."

The motion was put and agreed to.

8. The Hon'ble Mr. Cumming introduced the Bill, and moved that it be read in Council.

The motion was put and agreed to, and the Secretary accordingly read the title of the Bill.

9. The Hon'ble Mr. Cumming moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Rai Kisori Lal Goswami Bahadur, the Hon'ble Mr. D. J. Macpherson, the Hon'ble Mr. Garrett, the Hon'ble

[*Mr. Bompas*; *the President*; *Babu Deba Prasad Sarbadhikari.*]

Mr. Norman McLeod, the Hon'ble Maharaja Manindra Chandra Nandi and the Mover, with instructions to report after one month.

The motion was put and agreed to.

THE CALCUTTA IMPROVEMENT BILL, 1911.

10. The Hon'ble Mr. Bompas moved that the Preliminary Report and the further Report of the Select Committee on the Bill to provide for the improvement and expansion of Calcutta be taken into consideration.

The motion was put and agreed to.

Clause 14 (2a) [now 9 (*1*)][1] *in the Schedule to the Bill.*

THE PRESIDENT said :—

"Gentlemen of the Council,—Before we proceed to the consideration of the clauses of the Bill, I wish to make a statement for the information of the Council, which, I think, it would be convenient for Members to have at this stage, although it will only be considered in Council towards the end of the debate. It is this : that having in view the great difference of opinion which exists with regard to the omission of the 15 per cent. additional compensation from the land acquisition clauses of the Bill, this Government thought it proper to consult the Government of India as to their attitude in respect of these clauses, and accordingly we very recently requested instructions from the Government of India as to whether the provisions of clause 14 (*2a*) [*now 9* (*1*)] of the Schedule, referred to in clause 61 C(*b*) [*now 71* (*b*)] of the main Bill, were to be taken as embodying fundamental matters of principle, any modifications of which could not be permitted without reconsideration of the measure of assistance which the Government of India were prepared to give to the Trust. The Government of India have, within the last day or two, replied that their answer was in the affirmative, that is to say, should this Council pass these clauses as proposed to be amended, *i.e.*, if the 15 per cent. additional compensation be added, then the Government of India, in considering their assent to the Bill, will reconsider the question of financial assistance which they will give. I think it only right to inform those interested in the amendments at the earliest stage possible, in order that they may have time to consider this question."

11. The Hon'ble Mr. Bompas moved that the clauses of the Bill be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

Clause 1 (3).

The following motion was, by leave of the President, withdrawn :—

[2] 11A. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "which extends only to the Calcutta Municipality", in lines 2 and 3 of clause 1 (*3*), be omitted.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I ask Your Honour's leave to withdraw this amendment, and wish to add, by way of explanation, that I ask for this leave because this amendment is more or less verbal. Having regard to the very lengthy business before us, I do not propose to press for verbal amendments except where they appear to be very urgent and necessary. I wish to make this explanation, so that it may not be considered that we have tabled these amendments without due consideration. In framing these amendments and the others, we have tried to improve the Bill from all possible points of view, in the

[1] The clauses and sub-clauses of the Bill having been re-numbered under the direction of the Council, the present number of each clause and sub-clause is inserted in brackets, wherever the new numbering differs from the old.

[2] From this point, the numbering of the entries in the List of Business is irregular, the reason being that it was decided, for convenience of reference, to make no change that could be avoided in the numbering of the motions for the amendment of the Calcutta Improvement Bill as they appeared in the List of Business for the meetings of the 1st April, 1911, and following days.

best of the light that is in us, and if they, the amendments, do not commend themselves to the official Member in charge of the Bill, in spite of our pointedly drawing attention in time, the responsibility of rejecting them will be his. We shall have done what we deem to be our duty under the circumstances, and the rest is in his hands. If the official Members do not see their way of accepting the amendments, which are matters of drafting more than anything else, but which are none the less necessary, it will not be worth while to take up the time of the Council in arguing them or pressing for them. For these reasons, I ask for leave to withdraw this amendment, as an earnest indication of the manner in which I shall deal with my amendments."

12. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "within a distance of ten miles from Government House" be added at the end of clause 1 (*3*)

He said:—

"If we refer to clause 146 (*now 148*) of the Bill, which controls the procedure for this proposed extension, and if we read clause 145 (*now 147*) in conjunction with that clause, we find that, when any provision of this Act has been extended to any area under clause 1, sub-clause (3), the Local Government may, by notification published in the Calcutta Gazette, and in such other manner as it may consider necessary, extend, to such area, the whole of the Calcutta Municipal Act of 1899, if it thinks fit to do so, or any portion thereof, subject to such restrictions and modifications, if any, as may be specified in such notification. Clause 146 (*now 148*), no doubt, provides that, before finally publishing any notification under section 1, sub-section (*3*), or section 145, sub-section (*1*), [*now 147(1)*] the Local Government shall publish a draft of the same in the Calcutta Gazette, and it is obliging enough to enact that any ratepayer or inhabitant of the area affected by such draft, if he objects to it, may submit his objection, in writing, to the Local Government within six weeks from its publication. The Local Government is next enjoined to take such objection into consideration. Since the amalgamation of the suburbs with Calcutta proper under the Municipal Act, previous to the one now in force, such a large, comprehensive, and I was going to add, encyclopædic question has not come before the Legislature, and certainly not in this incidental way. Hon'ble Members will remember what strenuous opposition was offered to the amalgamation at that time I do not mean to say that the whole of that objection was well-founded, and that the amalgamation has not partially justified itself, or that further amalgamation will not be necessary or desirable. But the amalgamation I refer to was resolved on after due consultation of public opinion and detailed and prolonged consideration in Council. But we are, under the new order of things, not to have any of the hitherto existing safeguards, such as they are, and the most extensive and widespread amalgamation would be possible on mere executive action, without any consideration of principles or details in Council. So far as public opinion, expressed on the publication of a draft notification by the Government is concerned, that is no doubt provided for here for what it is worth. But it can hardly be worth much if all that can be done or said in Council fails.

"In view of the necessities of the situation, I concede that it may be necessary that some such power should be taken, and I have accordingly indicated, in my amendment, due recognition of the necessity which some feel for such a power. I feel, however, at the same time, and feel strongly, that there ought to be, and must be, some limit with regard to a serious and important matter like this, and although it may be an exaggeration to believe that, by virtue of this clause, if it chooses so to exercise its power, the Government may, by mere notification, include within the purview of this Act a considerable outside area stretching away miles and miles from the metropolis. Though this may be an exaggerated state of things,—its likelihood in a modified but no less objectionable form cannot be altogether ignored as an arrant impossibility. As the outside areas grow in importance, value and population by reason of the operation of the Improvement Act, there would be a decided object in extending the area, and such extension at each important step ought to be carefully and judicially considered by the Legislature after due consultation of public opinion.

[*Babu Deba Prasad Sarbadhikari.*]

"The Calcutta Municipality is interested in seeing, according to the opinions that have been collected together in this admirable précis of opinions, which the Legislative Department has prepared for our use, that when it has been recommended that the amalgamation—as I shall call it for present purposes—does take place, the outside municipalities concerned should be called upon to make equitable contribution towards the finances of the Trust. That is not only the observation of the acting Chairman of the Calcutta Municipality but also of the Special Committee of the Corporation, which says that, if the Act were extended outside Calcutta, the outside municipalities should bear a portion of the cost. This view may be quite sound, but the outside municipalities would have their views as well, which would have to be consulted and respected. Objection to this view was forcibly expressed by one of the speakers at the Town Hall meeting the other day, which resulted in the memorial that has been presented to the Government and which was circulated amongst the Members of this Council last night. Babu Jogendra Chandra Mukherjee, a distinguished Vakil and a late Member of this Council, who has been intimately associated with some of the outside municipalities, said as follows:—

'Under clause 56A (now clause 56) the Board can prepare schemes and plans relating to such outside areas and the Select Committee have worked out details in several other parts of the Bill contemplating the application of the proposed Act to those areas. But reading through the list of public bodies which have addressed Government on the subject, and whose criticisms have been taken into consideration by the Select Committee, I have not come across any reference to any communication whatever from any of the municipalities in the neighbourhood of Calcutta which will most certainly be affected by the provisions of the proposed Act. The only provision so far as I can see in the Bill which admits of an expression of opinion on the part of municipalities on the outskirts of Calcutta, or on the part of rate-payers living in those areas, is that they will get a notice before the actual extension of the Act itself in its entirety or of any portion thereof takes place with reference to those areas calling upon them to show cause why the provisions of the Act should not be extended to them. Now I ask you in all seriousness is this enough? Will the outside municipalities concerned get any opportunity of pointing out any defect in the provisions of the Act itself? Further, if the area itself be not included in Calcutta by another provision which is contained in the proposed Act, you will have this curious position that large areas outside the town may be brought under the operation of this Act without there being any representatives at all from those areas on the Board constituted as a permanent body under the Act. There may be temporary members of the Board from such areas, but they will have place on the Board merely for a temporary purpose and for a short period only, although the interference with the municipal administration of those areas will be of a more permanent and abiding character.

'I think, gentlemen, I am fairly entitled to presume that none of the municipalities, such as Howrah, Cossipore-Chitpur, Manicktala, Garden Reach, Tollygunge, etc., have been consulted as regards this Bill as they should have been, regard being had to the fact that the proposed Act will materially affect the areas under their charge.'

"As matters now stand, Sir, if land outside the Calcutta area were to be acquired before any portion of non-Calcutta areas were amalgamated and the provisions of this Act were extended to them, the owners of these lands would be entitled to certain indulgences and concessions with regard to extra compensation, which, for the moment, is denied to the Calcutta land-owners. They would be denied that right,—at least they ought to be, as I am inclined to read the clause in question,—the moment any amalgamation takes place. That is one of the striking results of these features of the extension, which should be taken into consideration. There may or may not be good reasons why, for the present, that drastic clause about non-payment of extra compensation is not being applied to non-Calcutta lands,—if I may so call them for the sake of convenience and brevity,—but the fact of the extension of the non-Calcutta provisions may withdraw that indulgence from non-Calcutta lands and would make distant municipalities liable for the contribution for which the Calcutta Corporation and their sub-committee press, probably with justice. These are some of the considerations that strike us, Sir, in considering the clause as it stands at present, and it has been thought, by those who agree with me with regard to the framing of this amendment, that there ought to be some limit about the extension that may be insisted on under this clause when passed. The notes on the clause which are appended to the Statement of Objects and Reasons point out that, for the present, the provisions of the Bill will extend only to the limits of the

[*Mr. Slacke; Babu Deba Prasad Sarbadhikari.*]

Calcutta Municipality, but portions of it [clauses 72, 73 (*now clauses 83, 84*) and 75 (*now omitted*)] will have effect in wider areas already determined, and portions will be applied in areas in the proximity of 'municipal Calcutta,' which will be determined in the future. But the principal provisions of the Bill, which have a much more serious aspect than these comparatively innocent clauses, will be capable of extension over an indefinite area any time and on any reasons that appeal to Government. If some such restriction as I advocate is not placed in the Statute, the position will be intolerable, and inordinate powers will be placed in their hands without any safeguards, no case for which has been foreshadowed in the Objects and Reasons or any of the speeches that we have heard in Council or any official papers that have been published. For this reason, I ask that this restriction of ten-mile limit be added to this clause, which would be amply sufficient for all reasonable present purposes and purposes of the immediate and near future."

The Hon'ble Mr. Slacke said :—

"Sir,—I am sorry I am unable to advise the Council to accept the Hon'ble Member's amendment, because it seems to me inopportune to place any arbitrary limit upon the Board, as we cannot at this stage foresee the scope of the operations of the Board."

The motion was then put and lost.

13. Motion No. 12 being lost, the Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "within a distance of fifteen miles from Government House" be added at the end of clause 1 (*c*).

He said :—

"The next amendment is more liberal than the previous one, and this, at all events, ought to meet all possible requirements. It seeks to place a limit of 15 miles from Government House. I am afraid the expression of opinion from the Hon'ble Vice-President of the Council, that fell in connection with the ten-mile limit, will be taken to have application to this amendment also, though it has a much larger scope. I do not wish to cover the same ground that has been covered in connection with the earlier amendment, for that would be needless waste of the time of the Council. Fifteen miles from Government House either way, would be very respectable dimensions for any Trust to deal with, and an indefinite expansion ought on no account to be contemplated or countenanced. There is an additional observation that strikes me, which I should like to place before this Council, in connection with the larger area. Having regard to the statement which you, Sir, made this morning, the question of financial responsibility ought to be one of great and anxious consideration to this Council, and it should be careful as to how it countenances indefinite expansion. The financial figures have been worked out on a certain basis, principally confined to Calcutta as it now stands. This larger responsibility would make the situation still more indefinite, and probably risky and unworkable, if no territorial limit at all is insisted. For that reason, I think it is my duty to press this amendment with a decidedly larger limit than ten-mile, as that limit does not commend itself to the Council."

The Hon'ble Mr. Slacke said :—

"I will ask the Council, Sir, not to accept the amendment for the same reasons which I gave in the case of the previous amendment. In my opinion, it is absolutely unnecessary at present to impose any arbitrary limit upon the actions of the Trustees."

The motion was then put and lost.

Clause 3.

17. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "until dissolution as hereinafter provided" be inserted after the words "perpetual succession", in line 5 of clause 3.

Babu Deba Prasad Sarbadhikari ; Mr. Slacke ; Rai Sheo Shankar Sahay Bahadur

He said :—

"I beg to draw the attention of the Council to clause 195 (*now 177*) of the Bill, which says that, when all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Board, in the opinion of the Local Government, unnecessary, the Board shall be dissolved from such date as may be specified. Having regard to these words, it strikes me that some qualifying words, like those I have proposed in my amendment, ought to be introduced after the words 'perpetual succession'. As far as I have been able to find out, there is no express provision for dissolution in the Bombay Act, from which the present words have been borrowed. No doubt it is an essential feature of all Corporations so that that they should have what is called, in law, perpetual succession ; but when a limitation, like that contemplated in clause 195 (*now 177*), has been deliberately provided for, a corresponding limitation seems to be necessary in giving the Corporation limited succession of the kind that is indicated in my amendment of clause 3. To provide for cases like these, what has been called 'continuous identity' has been recommended by Lord Halsbury in his Laws of England ; that does away with the idea of perpetual succession, strictly speaking. It ought to be possible, therefore, and I think it is necessary, to provide for these restricting words that I seek to introduce ; for the Corporation, which this Bill seeks to create, is one of limited duration, however indefinite, and cannot be said to have perpetual succession in its strict and unlimited sense, though it certainly has and ought to have what Lord Halsbury aptly calls 'continued identity'. For these reasons I recommend the addition of the restricting words after the words 'perpetual succession', for it ought not to be left to the tender mercies of future generations of lawyers as to what, according to the then obtaining rules of interpretation of statutes, 'perpetual succession' will mean, in spite of section 195 (*now 177*) which makes the dissolution of the Trust dependent upon the will of the Government of the day. The risk I wish to avoid is neither fanciful nor imaginary."

The Hon'ble Mr. SLACKE said :—

"I would ask the Council, Sir, to allow the clause, as drafted, to remain as it is, because, in the opinion of the Legal Adviser to the Government, the Hon'ble Member's amendment is a purely verbal one and does not make any improvement whatever in the clause as drafted."

The motion was then put and lost.

18. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the word "shall" be substituted for the word "may", in line 5 of clause 3.

He said :—

"Sir,—I beg to move that the word 'shall' be substituted for the word 'may', in line 5 of clause 3. This is a formal amendment. The clause of the Bill runs thus—

'and such Board shall be a body corporate and have perpetual succession and a common seal, and may by the said name sue and be sued.'

"In the same clause the word 'shall' and the word 'may' have been used in two places, conveying the same meaning. Though 'may' sometimes is used in the mandatory sense, the use of the word 'shall' in the earlier part of this very clause may lead to a legitimate interpretation that the word 'may' in this clause has been purposely used in a permissive, and not obligatory, sense. As it is worded, therefore, it would be optional with any one to sue the Board in any name he may choose, whereas the obvious intention is that they must be sued in that name. I submit that the wording of the Bombay Act in which the word 'shall' has been used in both the places, may be accepted."

The Hon'ble MR. SLACKE said :—

"I would ask the Council, Sir, to accept the Hon'ble Member's amendment, because it is really not a matter for discussion. We have 'shall' in the Bombay Act, and I think we may as well have 'shall' in this Bill also."

The motion was then put and agreed to.

[Babu Bhupendra Nath Basu.]

Clause 4.

19. The Hon'ble Babu Bhupendra Nath Basu moved that the word "thirteen" be substituted for the word "eleven" in line 1 of clause 4.

He said :—

"Before I go into my amendment, of which I have given notice, Your Honour will allow me to express to Your Honour's Government the deep sense of my personal obligation for having kindly consented to let the consideration of the Bill to stand over for a few weeks. I am deeply grateful for this indulgence, and I express not only my own feeling, but also that of my friend the Hon'ble Mr. Golam Hossein Casim Ariff, who also was away from India for a short while. It is, however, Sir a matter of some concern to us to find that the time which has been fixed for the consideration of the Bill is rather inopportune, for as Your Honour observes many of our non-official members, who have not got the same pressure upon them as others may have, have been unable to be present on this occasion, and for one of us the temptations for a pageant at Dacca have been too strong to induce him to stay here to do his duty, and as for the others the coming ceremony of *Janmastami* has had something to do with their attendance on this occasion. In rising to move our amendments, we cannot escape the feeling that we are considerably handicapped on this occasion, for even if all of us who are present here to-day voted on our side on any particular amendment, there is little hope of such amendment being carried. We are in the position of leading a forlorn hope, but Your Honour and my colleagues will pardon us if we think it our duty to place before this Council our views on what we consider the essential features of the Bill. I am sure Your Honour knows that we, non-official members, are as anxious as our official colleagues that there should be some measure enabling some body to be constituted under the Act to carry out large schemes of improvement of the city of Calcutta. In that our position is identical with that of Government and the public of Calcutta have been anxiously awaiting for many years, since it was suggested when first plague broke out, the advent of a comprehensive Improvement scheme. It is not a measure that we oppose, but we only wish to place before Your Honour's Government our view that in the details of that measure there is reasonable scope for difference of opinion, and that it will be better and safer if the measure is carried out with the co-operation of the people concerned. The Local Government Board in England in one of its recent circulars dated 3rd May, 1910, lays great emphasis on this principle of co-operation.

'In the Circular letter which they addressed to town councils and urban and rural district councils on the 31st December, 1909, the Board drew attention to the importance of co-operation on the part of the local authority with the owners and other persons interested in the law proposed to be included in a town-planning scheme. The Board desire again to emphasise this point.'

"Sir, our grievances have all along been that, in seeking to attain an ideal efficiency, the Government of my country is sometimes apt to overlook the environments amidst which it is placed, and it is sometimes, I regret to say more often than otherwise, apt to go forward without taking along with them the people in whose interests it legislates. I would therefore respectfully appeal to my colleagues, official and non-official, that even if they find that their ideal may not at once be attained if they conceded to some extent to popular demands and popular requirements, but if they find that we are making a fair way towards the attainment of that ideal, I ask them to consider whether some concession to popular wishes should not be made. With these few words I come to the specific amendment which is now before us. We have, in Select Committee, made a specific advance from the principle originally proposed which, I believe, was from 7 to 11, but there was one consideration which our official friends placed before the Select Committee, and which has to a great extent marred the beneficial effect of that increase, viz., if there was to be an increase of four, the Government which had already a majority should also have a corresponding increase, and that increase of four was split into two parts, two seats being given to Government and two being given to the

non-official or the non-Government element in the composition of the Trust. Well, Sir, I for one do not appreciate the view of Government that in all local matters there should be a directly preponderating voice of Government. In the control of the body which is charged with such matters, I certainly do not appreciate the view that our people should always be treated as children who have yet to learn work. As soon as we succeeded in the Select Committee in increasing the number to four, the benefit of that enhancement was greatly reduced by the attitude of the official members in claiming and securing two of the four for themselves. Well, whatever may be the attitude, that is a fact which we cannot get over, but I think I am entitled to say that the number that we have now got, namely, three out of eleven, is not sufficient for the purposes of proper administration of the body which is going to be created, and the proper consideration of the various matters with which it will be entrusted. If we are following the Bombay Act, let us follow it as it is. It was said on a recent occasion when the Bombay Police Act was taken as the model upon which the Calcutta Police Act was framed, that we have got a Bombay Act which is working well. Why should we not have in Calcutta a similar Act on the same lines. Well, Sir, if we are to be governed in India, as I suppose we must be, by the argument of analogy, let us have the argument pushed to its legitimate issues. If Bombay has got 14 members, Calcutta certainly with a bigger population and more varied interests and a larger superficial area is certainly entitled to 14. I know, Sir, that an eminent Viceroy on one occasion said that if the affairs of Calcutta were entrusted to a single individual, things should go on much better, and Calcutta would soon assume a different and improved aspect. That single individual, as my hon'ble friend to my right reminds me being the Viceroy himself. I have no doubt that many masterful spirits on the Civil Service also harbour a similar feeling. I am speaking in the presence of the Chairman of the Calcutta Corporation, for whom we all entertain the highest respect. I am quite sure he feels that if he had got control over the Rs. 75 lakhs a year, unhampered by the discussion of troublesome colleagues, he would be able to do a great deal more than has been done. Well, that may be a correct feeling, and though it may be considered that despotism or absolutism in some respect may be good, we under the British Government have been accustomed to deal with public bodies concerned when dealing with great public questions. Well, if that is to be admitted, then I certainly think that the number 11 is far too small for a body that is going to be formed for the disposal of such large sums of money as are likely to come into its hands, and the consideration of questions which will greatly affect a very large class of people for the present and for a long time to come, and it is necessary in your own interests that in that body all conflicting opinions should be well represented. At present I submit that that representation does not obtain and, if we are at all to follow the model of Bombay, why should we in this very important particular deviate from that model? There is no such suggestion in the Statement of Objects and Reasons, and no justification has been put forward in the discussions which took place in the Select Committee for limiting the number to 11. I therefore appeal to Your Honour and to my official colleagues with some confidence that, in order to associate with yourselves representatives of all the different interests in Calcutta and its immediate vicinity, it is not only desirable but necessary—and more than necessary and more than desirable, I say it is just and fair—that this body should at least be composed of 13 members."

The HON'BLE RAI SITA NATH RAY BAHADUR said:—

"I beg to say, Sir, my amendment is also to the same effect as that moved by the Hon'ble Babu Bhupendra Nath Basu. But before speaking on the amendment, I beg to say that a cry has been raised in some quarters that the Indian members of this Council are opposed to this measure. I beg to repudiate this allegation emphatically. Living as we do in the midst of congested and most insanitary and unhealthy areas which are the nurseries of all epidemic diseases, it is our earnest desire that prompt measures should be taken to remove all the insanitary areas, to remove congestion, and to provide streets and wide roads in the northern portion of the town. We are not

opposed to the principles of the Bill, but we are opposed to some of the drastic provisions of the Bill,—the provisions which seek to restrict our right of appeal to the High Court, the provisions which seek to reduce the amount of compensation, the provisions which would deprive us of the statutory allowance of 15 *per cent.*—these are the provisions which we are opposed to. I beg to assure Your Honour and the Council that we are not at all opposed to the principles of the Bill. We shall hail the Bill with delight provided some modifications are made in the existing provisions

"I thankfully admit that the Select Committee have been good enough at our instance to raise the number of Trustees from seven to eleven; but I cannot comprehend why our Board should be less comprehensive, should be less representative than that of Bombay, which consists of fourteen members. Considering the vastness of interests at stake, the colossal amount of money involved and the magnitude of the task, it is of the utmost importance that the Board should be thoroughly representative and sufficiently comprehensive. The apprehension of the Hon'ble mover of the Bill that the formation of a comprehensive Board here would lead to the disclosure of their schemes and consequently to speculations is, I venture to assert, as unfounded as it is unreasonable. It is, by implication, a reflection on the representative men of Calcutta that a sufficient number of reliable men amongst them cannot be found here to constitute a Board as comprehensive as that of Bombay."

The Hon'ble MR. BOMPAS said:—

"Sir, I regret that the mover of this amendment finds that this is not an opportune time for the consideration of this Bill. He appears to be somewhat hard to please. The month of April was originally fixed for the consideration of the Bill and the debate was then adjourned to August to suit his convenience, and still he finds the moment inopportune. Certainly there was no sinister motive in fixing on this date, and I for my part feel no satisfaction in hearing from the Hon'ble Member that some of the non-official members are not present. On the contrary I wish that more non-official members were present, for I have every confidence that I can persuade some of them to oppose this amendment. There are several amendments to this clause 4 proposing to raise the number of members of the Trust, and I will not ask the members of this Council to listen to a somewhat barren discussion of the abstract question whether 11 or 13 is the proper number for a body of this kind. The amendments proposed by the Hon'ble Babu Bhupendra Nath Basu and the Hon'ble Rai Sita Nath Ray Bahadur are followed by consequential amendments, which state what interest these additional members are to represent, and what their qualifications are to be. In considering whether it is desirable to raise the number of members of the Trust from 11 to 13, it is impossible to do so satisfactorily without also considering what is the object to be attained in doing so as revealed by the subsequent and consequential amendments. There have been, in the course of the years that have passed since this Bill was brought under consideration, various opinions as to the number of members that should constitute the Trust. When the Bill was submitted to this Council it was intended that the Board should consist of the Chairman of the Corporation, two Government nominees and three members elected—two by the Corporation and one by the Chamber of Commerce.

"In 1904, as members of this Council are aware, a Committee sat to consider the provisions of the draft Bill. That Committee was strongly in favour of a small executive body of six members, which would act secretly and act vigorously. It was also proposed that that body should be entirely composed of nominated members. The late Babu Nalin Behari Sarkar was strongly opposed to the elective system. The Chamber of Commerce was also in favour of six members. When the proposal was submitted to the Government of India and to the Secretary of State, they agreed that a body of six would be most effective. These opinions must carry some weight with every thinking man. A good deal can be said in favour of a small executive body. The Chamber of Commerce

still adheres to the opinion that the smaller number is preferable. Ther were, however, several opinions, received from public bodies, in favour o a larger body, and it was recognized that the Corporation of Calcutta whic would make substantial contributions to the funds of the Trust and upon whic will devolve the assets and liabilities of the Trust, should have a substantial voic in the administration of the Trust. To give the Corporation such a represen ation and to add one or two other elected members, necessitated the raising o the number of members above six. But I do not suggest that the Trust, s constituted, is intended to be representative of all the classes and all th interests in Calcutta, and what is more, I will ask this Council to hold that body of thirteen must be as inadequate to do that as a body of eleven.

"This Trust will have very large funds to administer. The Governmen is taking from the general tax-payers considerable annual sums as well as larg lump grants, and the Government in doing so—as every Government must— is bound to see the money put into the hands of a body for whose administra tion it will be to a large extent responsible. That would certainly be the cours that would be adopted in England. I do not know of any case in England i which public money raised from general taxation for a public improvemen is entrusted to anybody but a body nominated by Government. Take th case of the Congested Districts Board in Ireland. It might have been though that in a country like Ireland, where class feeling runs so high, provisio would have been made to represent different classes and conflicting interests— landlords and tenants, Catholics and Protestants. But this has not been don and was never suggested. In 1891, when the Congested Districts Board wa first created, it consisted of two *ex-officio* members and five members appointe by the Crown. In 1909, it was reconstituted, and now consists of thre *ex-officio* members, nine unpaid members appointed by the Crown for fiv years and two paid members on £2,000 a year each, holding office during pleasure. In 1909, the Parliament allotted funds for the purpose of promoting industrial and agricultural development and also for the construction of mai roads. Two Boards were constituted to carry out these operations, and t these the funds were entrusted. These Boards were not representative. There are eight Development Commissioners appointed by the Crown for a period of ten years, while the Road Board consists entirely of persons appointed by the Treasury. These are illustrations of the working of the principle which I submit to this Council, to wit: that if Government takes money from the general tax payer it owes it to him to keep control over the agents who will spend the money and cannot divest itself of that responsibility.

"I do not regret the addition to the Board of some elected members. I look upon those members mainly as a guarantee to the public that the Board which will spend their money will not be actuated by motives which would not bear the light of the day. These elected members, representing the public, will see that nothing is done contrary to the public interest, and that the public money should be spent in such a way as will bear scrutiny. The particular amendment moved by the Hon'ble Babu Bhupendra Nath Basu aims at raising the number of Trustees to thirteen, and the Hon'ble Member, as his subsequent amendment shows, desires that these two additional members, should represent the landholding classes of Calcutta. There are some more similar amendments. But this amendment is the first step in the move to add two representatives of the landholding classes to this Trust. Now the land-owning classes of Calcutta are vitally interested in this Bill. That is to say, they are a class that will be vitally affected by the operations of this Bill. But it does not follow that a person who is greatly interested in the decision of any matter should necessarily have a prevailing voice in deciding it. No one is so interested in the result of a criminal trial as the accused in the dock. But that is no reason why he should be allowed to decide as to his own guilt. There are interests which disqualify as well as interests which qualify. There are other classes which are as much interested as owners of property in the operations which it is proposed to undertake on the basis of this Bill. There is the enormous mass of labour which is attracted to Calcutta and which now suffers seriously in health by having to reside in congested

and over-populated quarters of the town owing generally to the lack of proper means of communication, and to the insanitary lines on which much of the town has been built. The claims of this class, among others, to consideration, are as great as those of the property owners. A sum of fifty lakhs of rupees has been given to Bombay by the Government of India, and none of us grudges it being given to that city, although the sum was taken from the general revenue. But after all, the population of Bombay or the population of Calcutta is less than a million. Many districts of Bengal have a population of double that number. But we know that there is no chance of a grant of a hundred lakhs being made, say, to the district of Burdwan, the population of which may be two millions. The resources of Government cannot possibly extend so far. But this fact must necessarily make those who live outside Calcutta and Bombay, watch with a jealous eye the manner in which these large grants are spent. When we saw the allotment of this sum to Bombay, I for one did not feel the desire that it should be handed over to a committee of landowners to divide according to their mutual satisfaction. What I, and, I think, most of us, felt at once was that it was the duty of the Government of India to see that this large grant was spent with the utmost economy and the utmost efficiency. I submit that this scheme is not a matter of local interest only The people of Calcutta will only provide three eighths of the money to be spent, and those living outside Calcutta will provide five-eighths of the cost of the works that will be undertaken by the Trust, and they will have a preponderating interest in the administration. And I submit that it is the duty of the Government to protect their interests. It is the duty of the Government to see that the money shall be spent by an impartial body and a body free from the suspicion that must attach to a body composed mainly of those who have vested interests in existing conditions in Calcutta. With these words I would ask the Council to reject this amendment."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Well, Sir, I am obliged to my friend the Hon'ble Mr. Bompas for a very frank statement of his views. I have nothing to complain of. But when I stated that the sitting of this important session of this Council had, by some coincidence, been fixed at a time when some of the hon'ble members were unable to attend, I did not for a moment suggest or intend to suggest, and if there is any suggestion like that I expressly withdraw it, that there was any sinister motive which actuated the Government in fixing that time. There was no such thought passing through my mind. Why is it and how is it that that thought comes to my friend's mind? Did he at all by some psychological process think that things might be so taken as to give it an aspect which he was so anxious to combat? There was no evil in my mind, nor any suggestion of evil. My hon'ble friend says that the original idea was to entrust the working of this Trust to a body who would act secretly and vigorously. I will remind my friend from the history of his own country that the Star Chamber was a secret and vigorous body, but it had to go its way; and so many other secret and vigorous bodies like the cabinets of Louis XIV and Louis XVI. It is well known that secrecy in the matter of public work has ceased to be a doctrine and is no longer believed by any man or body in matters of administration concerning large masses of people. Secrecy may be very good in the Turkish and Russian Empires, but in no department, I hope, of the British Empire, and in the present framing of the Bill the idea of carrying on the proceedings of the Board in secrecy has been given up There is to be the full light of day, and I may remind my friend that instances in the history of the world are not rare where bodies created by Government have misapplied the money that has been entrusted to them from time to time, and that it is only by the appointment of private individuals that misapplication of public funds has been put a stop to. But apart from that, Sir, my hon'ble friend has again made this astounding declaration that in England public funds are not entrusted to representative bodies for distribution but to secret or private Boards. It is news to me, Sir. Does my hon'ble friend know what enormous sums the London County Council has spent for the improvement of London ?"

The Hon'ble MR. BOMPAS said:—

"I am afraid the hon'ble member has misunderstood me. What I said was that money given by Government from the national exchequer for a certain purpose is invariably spent under the control of the Government.

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I accept my friend's explanation, but if he had only considered the situation in Ireland, where there were varied interests which could only be safeguarded by third persons, he would see that that example would not apply to the state of things in Calcutta. My friend has admitted that the presence of outsiders on the Board is after all to some extent desirable, and I am grateful to him for that admission. I do not wish that outsiders should be there to fatten their own interests, and I suppose that it is not the wish of any body here that different elements should be introduced into the composition of this Trust for the benefit of any particular interest. My object—if I had not been able to make it clear—is this: that all interests affected should be considered, not that those interested should have predominence; but if any class of people—be they the offending landlords of Calcutta or otherwise—are injuriously affected, they should have a hearing. That their case should be properly considered, I suppose, is a proposition which will commend itself to my hon'ble friend, who has exercised judicial functions for many years, and I am sure he will assent that persons whose interests are being affected should be given a fair hearing. In that view, I had suggested that the numbers should be increased. My hon'ble friend has gone further and attacked me, if I may say without disrespect, from behind. Well, Sir, the landlords, whether in Calcutta or outside Calcutta, seem to be a veritable bugbear to the official mind. They may have their fault; who of us, human as we are, are without our faults. Even the mighty members of the Civil Service will admit that they have had their faults in the past at least. But I say this, that it is a mistake to suppose that the landlords' interests are such that they should be brushed aside, that they should have no voice in the Board which is going to adopt measures which will largely affect them, and in using the word "landlord" I take care to state what I mean. I do not mean to refer to the great territorial landlords in Europe who have usurped large parts of the city and who have built tenement residences for the poor and for the occupiers. It is not they who are in my mind, for, if any such class does exist in Calcutta, they are powerful enough and wealthy enough to protect their own interests. But I refer, Sir, to quite another class of landlords, just as in the Punjab the cultivators are called the zamindars because they own in some sense the land which they cultivate. So in Calcutta the occupiers of those dwellings that you see on the north of Bowbazar Street are the landlords of Calcutta who will be very seriously affected. It is difficult for Englishmen, brought up under a different state of things altogether and in a place where large tracts of land are held by individuals and where they make their own terms, to realise the real state of things which obtains in an oriental city like Calcutta which has grown under its present conditions for the last century, and I shall come to that point later on when we consider the question of additional compensation to be awarded to those who will be displaced by reason of the carrying out of these improvements. But if the wealthier landlords do not appeal to you, I say at once that I do not represent them in this Council. They are men who are able and worthy enough to protect their own interests, and some of them are in this Council. I represent the middle classes, the middle class householders, who have occupied ancestral houses in Calcutta ever since the days of British rule in India, ever since the time of Clive and Hastings, and in considering this Act from the very beginning to the end, I am concerned with the question as to how the rights of these people are to be dealt with, as to how large masses of them are to be removed from one place to another, as to how they are to be treated in connection with improvements which are to be carried out. It is because these matters have to be considered that I think the representative of this class ought

to be on your Board, to place their voice before the Board It will do you no harm, it will not weaken your composition, for under the constitution as it is Government has got (*a*), Government has got (*b*), Government has got (*c*), and all four of (*d*), so that it has got, seven out of a body composed of 11 members. Then the Government has got, in the representative of the Bengal Chamber of Commerce, a gentleman who is always animated by European ideals and inspired by things which he sees in his own country, and who, in a measure for the carrying out of large improvements, will support Government in their laudable desire to effect improvements, and I am quite sure also that the middle class people will desire to associate themselves with you. They will only seek to do so, in order to prevent you from falling into a great error, to prevent you from ignoring their legitimate grievances, to prevent you from undertaking operations which may lead to disaster, and to prevent you from accentuating the discontent which a measure like this, if carried without due consideration, is bound to foment. Will you say that you will disregard all these? 'We shall go on in our way, discontent or no, misery or no, because we think that this should be done for your protection, for the greater efficiency of the improvements which we will undertake.' Does my friend say—would he venture to say: 'You landlords will have no representatives in this body, although you represent ⅔ths of the population, although you contribute towards the cost of this improvement scheme, and I shall do what is good for you.' But what of those whose houses will be taken without the payment of the 15 per cent. compensation because they are in an insanitary neighbourhood, because they are occupied under circumstances for which the owner ought not to receive the full value for which they could be sold in the open market? What of those upon whom you will levy an enormous tax for the privilege of retaining a portion of their own land—a matter upon which, when the relevant clauses come on for consideration, I will place before the Council the experience of England in recoupment and the betterment processes? Do they not by the process of recoupment contribute towards the capital cost of the schemes that are going to be carried out? And what of that powerful body, the Corporation of Calcutta, which has to bear the ultimate responsibility, the entire financial responsibility of this Trust? Where, in this body, is the representative of this class of householders?

"First of all you have got a Government President; secondly you have the Chairman of the Corporation a Government official and three other members of the Corporation You will at once tell me 'Here I make a present of *three* to you,' but how three? I am tendering you this challenge. Let us consider who these three are. One of these will be elected by the 25 elected Commissioners These elected members are again elected not only by the landholders or the residential owners of Calcutta, but by the occupiers also So they are not in any true sense the representatives of the householders of Calcutta, that is the man who is to be elected by the 25 Commissioners These 25 Commissioners are returned by the owners by the property holders as well as by the tenants. You cannot, therefore, say that this is the man who represents the landlords of Calcutta. The other man is elected by whom—by the other 25 Commissioners—and who are these 25 Commissioners—15 Government nominees, of whom I believe twelve are Government officials, 4 representatives of the Chamber of Commerce, 4 of the Calcutta Trade Associations and 2 of the Port Trust. Of these 25, who do you say would represent the landholding classes? Then come to the whole body of 50. Then again you have got a composite mixture of opposites, by what chemical process will you extract a representative of the landholding classes of Calcutta from this body. You have given a representation to the Bengal National Chamber of Commerce because they are interested in the jute industry. Are the householders not interested? Are they not interested at the present moment and are they not interested in the future of Calcutta? I ask you this in all fairness. Do you think that I seek to introduce this amendment in order to find room for these obnoxious individuals in the Board? Have you given them any where any direct representation? Have you considered their claims? These are matters for

your consideration You have got the power, but you have not got the will. Popular opinion has been lightly set aside; do not for God's sake add to the discontent already existing."

A division was then taken, with the following result:—

Ayes 18.	*Noes 27.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Babu Deba Prasad Sarbadhikari	The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. J. G. Apear.	The Hon'ble Mr. J. H. E. Garrett
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. T. Butler.
The Hon'ble Mr. Saiyid Wasi Ahmad.	The Hon'ble Mr. E. P. Chapman.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. K. B. Dutt.	The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. S. L. Maddox.
The Hon'ble Mr. M. S. Das, C.I.E.	The Hon'ble Mr. B. C. Mitra.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Mr. G. W. Kuchler.
The Hon'ble Babu Mahendra Nath Ray.	The Hon'ble Mr. L. F. Morshead.
The Hon'ble Babu Braj Kishor Prasad.	The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Babu Bal Krishna Sahay.	The Hon'ble Mr. C. E. A. W. Oldham.
	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble H. J. Hilary.
	The Hon'ble Lieut.-Col. G. Grant Gordon, C.I.E.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr. F. H. Stewart
	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
	The Hon'ble Mr. T. R. Filgate.

The following members were absent:—

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, KT.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was ayes 18, noes 27, and the motion was therefore lost.

Motion No. 19 having been lost, an identical Motion (No. 20), of which the Hon'ble Rai Sita Nath Ray Bahadur had given notice, was withdrawn.

[*Mr. Apcar.*]

21. **The Hon'ble Mr. Apcar** moved that the word "twelve" be substituted for the word "eleven" in line 1 of clause 4.

He said:—

"I, on my part, have no idea of withholding the purpose of my amendment. I openly avow that my intention is to obtain another member for the Corporation, and I will go further to say that my observations on this amendment shall cover my amendment to clause 7, if only the Hon'ble Member will allow this amendment to pass. I regret that my hon'ble friend has begun to gird at the landlords already. If I may refer to a personal matter, I, on my part, have but the slightest interest as a landlord, and such as I have is not held on my own volition. The knowledge I have obtained of the position of landlords and my study of their prospects under this Bill when it becomes law, however, influence me to say that I would not become by my choice, a landlord in Calcutta. My only feeling about landlords is that they should have fair treatment. But it seems to me that we are introducing a new code of morality—'not to do to others as they should do unto you.' The same feeling against landlords has found expression in England. Mr. Alfred Lyttleton, from his place in the House of Commons, in the discussion on the Housing and Town Planning Act, 1909, ascribed it to tenants who think that it is for themselves to fix the rent they should pay. And, I do not seek admission by my amendment for another member of the Corporation to reinforce the landlords or in order that he may scrutinize the expenditure of the Board. I want rather to bring to the aid of the Board co-operation with those who will be affected.

"I am glad that my hon'ble friend (Babu Bhupendra Nath Basu) has already brought to the notice of the Council the advantage of co-operation. Sir, no person who has endeavoured to study the special laws from which we are borrowing, and their practical working in England, can have failed to observe that co-operation is the key-note of their proceedings in that country, and that bureaucratic or departmental action would have been fatal to successful operation under those Acts. Co-operation is made a prominent feature in their Statutes and is emphasised by rules and regulations of the Local Government Board. Personal effort by individuals representing local authorities, to obtain co-operation with those who will be affected, is insisted upon, by workers and writers alike, as a necessity to try to remove, so much as is possible, hardship on owners of small properties. This entails great labour, but it is found, as is to be expected, to quote the words of a high authority who has devoted himself to the subject and written most usefully on it: 'So much more work is done when those concerned are pulling together, instead of different ways.' In England, co-operation is a living element, because the authorities who give effect to these special laws are local municipal bodies composed, throughout, of popularly elected councillors who are in intimate touch with the people whom they represent. The conditions here are to be different. But while I accept the Board *ad hoc*, it is not inconsistent with that attitude if I examine the composition of the Board and the effect of its working for the purpose for which it is being created.

"I have no desire to minimise the effect of the generous contribution, by the Government, of the special taxes that are promised. But mere provision of money, for a Board such as is contemplated, for the purpose of a law such as is before us, will not necessarily spell success, any more than the handing over of a cheque would equal the service that personal interest and a proper understanding of the wants of those whose poverty it is desired to relieve, can achieve. There is anxiety now: it may develop into discontent and dissatisfaction, which will hamper the smooth working of the Act, unless the Board are capable of getting into touch with those whose rights are threatened and winning their confidence and co-operation in the measures that are contemplated.

"I have desired, in my amendments, not to be out of proportion to the view now entertained by the Government, and yet to ask for so much representation as, I think, I very fairly may ask for the Corporation,—to which body, I

may add, as their representative in the Council, I have confined my attention. I have left it to others to move, as in their discretion they might think fit, on behalf of other interests. On my own part, I do not seek to advance the claim of any association or individual. Personally, I am not concerned, because, with a Board that will be constituted as is contemplated, I believe that the Corporation will be best represented for the work of the Board by men of this country, and I shall not offer myself as a candidate. But, Sir, the more I have studied this subject, the more firm has my opinion grown that it would be a real help to the Board if the number of Trustees were increased, to give opportunity for a larger representation by those who, I think, would most usefully serve the Board and, therefore, the public: not as occupants of merely honorary offices, but workers who would give ungrudgingly of their time and labour: and, among the workers on the Board, I believe none would be found more zealous than he who may be chosen from among the elected Commissioners of the Calcutta Corporation.

"The maintenance of secrecy for the schemes of the Board, as a reason for keeping the Board of Trustees numerically small, has been wisely abandoned as an impossible ideal. The principle that where there is taxation there should be representation, has been in a measure recognised. But the most important reason of all, for wider and popular representation on the part of those who will be affected,—co-operation and the necessity for securing a representation that will help to that end,—has apparently been neglected.

"After the careful consideration I have been giving to the questions involved, I have been led to the conclusion that there is even greater need of popular representation for the work before the Board than for municipal administration, of course under the actual control of the Government such as exists in England. My appeal, however, is whittled down to a very humble dimension; but even that little, I am assured, will be an advantage to the public, if it is allowed. And we have an additional reason for consideration that gives a stronger claim than others have, in the provision that on the Corporation will fall the ultimate responsibility of the acts and expenditure of the Board."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said:—"Sir, the amendment which stands in my name is exactly the same as that which stands in the name of the Hon'ble Mr. Apear. I should only add a few more observations to what has already been said on this subject by the Hon'ble Babu Bhupendra Nath Basu and the Hon'ble Mr. Apear. The enlargement of the Board, by one or two members, forms the gist of the amendments. Government has shown its anxiety in having a fair and adequate representation of different interests. To quote the words of the Hon'ble Mr. Bompas, one class of people, namely, the land-owners and the owners of houses, who are not only vitally interested but would be vitally affected by the Bill, have got no representative on the Board, and the question therefore is, ought not the Government to be consistent in having a representative from the land-holders in the Board. What I beg to submit, Sir, is that in order to maintain and preserve consistency some provision should be made by which the land-holders can have at least one representative."

The Hon'ble MR. BOMPAS said:—"Sir, I must resist this amendment and the two similar amendments raising the number of members from 11 to 12. The mover of this amendment has very fairly made his proposal comprehensible to the Council by explaining the effect of the consequential amendments. Respecting the Hon'ble Mr. Apear's amendment, I may say that I have no intention of girding at the Corporation. He has charged me with girding at the landlords, but I think unjustly. The Hon'ble Babu Bhupendra Nath Basu in his reply spoke of the landlords as obnoxious individuals and called them by other hard names as if I had made use of those epithets. But I think that the members of the Council will bear me out when I say that it was not I who used language of that kind. The interest of the landlords in the working of the Trust is not of such nature that it would be wise to give them a preponderating voice in the Board. There is an interest which qualifies a man to serve in a Board, and we all

know that there are interests which would also disqualify a man serving in the Board. I do not deny that the landlords are interested in the scheme, but I think their very interest should disqualify them from having a preponderating voice in the working of the Board. If I had the eloquence of the Hon'ble Babu Bhupendra Nath Basu, and could take up the time of the Council, I could also draw a picture of the sorrows and trials of the tenants and of the labourers living in crowded and insanitary *bustees*. There are many classes who suffer. It is possible that the operations of the Trust will result in the lowering of rents in Calcutta. Why should not those, whose interest lie in the lowering of rents, have a preponderating influence on the Board?

"As regards the Corporation, I resist the amendment on the ground that, although the Corporation has such a large interest in the working of the Trust and provides a large portion of the funds, the representation that it has—it is represented by the Chairman and three elected members—is quite adequate and fair. It is misleading to say, 'Oh, I ask for one member, and it can't do any harm.' The Corporation is generously represented and I cannot assent to the increased representation which will upset that balance which now subsists. The argument against having one more landlord appears to me to be covered by what I said in dealing with the former amendment. That interest is an important one, but no one can deny that they are well represented. The Bengal National Chamber of Commerce will probably send a landlord as one of the Trustees. The Corporation of Calcutta will, I think, also send landlords. Undoubtedly there is a preponderance of landlords on the Corporation, and it is inconceivable to me how the interests of landlords and of the ratepayers should not be represented by the elected members from the Corporation.

"The Hon'ble Mr. Apcar has insisted strongly on the necessity of co-operation between the Trust and the public. I do not think that the constitution of the Trust and the proportion of the representatives of the Corporation on that Trust has very much to do with such co-operation. That will depend very largely on the spirit in which the Trust acts and it is quite possible for a single Government officer and a purely nominated body to recognise the advantages of co-operation between the authorities and the public and to seek to secure such co-operation. Both he and the mover of the first amendment have quoted from the Circular issued by the Local Government Board. We all agree with the spirit that animates that Circular, but I must point out that it is not strictly in point, for it was issued in reference to town planning schemes. Under the law which authorises the formation of such schemes, the local authorities have power to dictate the manner in which landlords shall develop their estates. Obviously no such scheme could possibly be framed except in consultation with the landlords.

"As regards facilities for co-operation, I would ask the members of this Council to look at clause 17A (*now 19*) of this Bill.

"They will see that in that clause the Board has power to co-opt additional members for any particular purpose, and under clause 18 the Board has power to appoint outsiders to serve on committees. There is no similar provision in the Bombay Act, and I submit that these provisions afford every reasonable means of co-operation between the Trust and the public. In Bombay the Municipality supplies the bulk of the funds which are administered by the Trust. The Bombay Trust received no money grant from Government and the proceeds of no special taxation. But the Bombay Corporation has only four representatives on a Council of fourteen, while we propose to give the Calcutta Corporation three members out of eleven. The proportion is the same, although Calcutta bears nothing like the same proportion of expenditure as is done in Bombay. In view of these considerations I would again ask the Council to leave the clause as it stands."

The Hon'ble MR. APCAR said:—

"The Hon'ble Member has misunderstood me. I did not suggest that an extra member would do no harm, but, on the contrary, that he would be of great

[*Mr. Apcar.*]

help. The Hon'ble Member has very fairly attempted to meet me by reference to clause 17A (*now 19*). But his answer is not sufficient. Those who may be appointed will be appointed by favour of the Board. They will not be members of the Board; they will not have the same influence and the same opportunity for usefulness and rendering help. The Bombay Trust may not have received an annual subvention or grant of money, but they were given the use of property valued at over 50 lakhs. And as for landlords, I am innocent of landlordism in my proposal, in intention or purpose. If a landlord becomes a Trustee under cover of my amendment, it will be due to his merits in other respects rather than the fact that he happens to belong to that class. I will not take up further time of the Council in view of the voting disclosed in the last issue. But the Hon'ble Member in charge must pardon me if I say that he has not met me in my contention."

A division was then taken, with the following result:—

Ayes 18.

The Hon'ble Babu Bhupendra Nath Basu.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.
The Hon'ble Maharaja Manindra Chandra Nandi
The Hon'ble Babu Deba Prasad Sarbadhikari.
The Hon'ble Mr. J. G. Apcar.
The Hon'ble Mr Golam Hossain Cassim Ariff.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B Dutt.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Rai Baikuntha Sen Bahadur.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr Dip Narayan Singh.
The Hon'ble Babu Bal Krishna Sahay.

Noes 27.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Mr R. T. Greer, C.S.I.
The Hon'ble Mr. D J. Macpherson, C.I.E.
The Hon'ble Mr E. W Collin.
The Hon'ble Mr. J H E. Garrett.
The Hon'ble Mr. T Butler.
The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. B K. Finnimore.
The Hon'ble Mr. S. L Maddox.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr G. W. Kuchler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E A. W Oldham.
The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.
The Hon'ble Mr. C F. Payne.
The Hon'ble Mr. H. J Hilary.
The Hon'ble Lt.-Col. G. Grant Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. F. H. Stewart
The Hon'ble Mr. W. J Bradshaw.
The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Mr. T. R. Filgate.

The following members were absent:—

The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, KT.
The Hon'ble Kumar Sheo Nandan Prosad Singh.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Dr. Abdullah Al-Mamun Sahrawardy.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was Ayes 18, Noes 27, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

22. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the word "twelve" be substituted for the word "eleven" in line 1 of clause 4.

23. If motion No. 20 be carried the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "four" be substituted for the word "three" in clause 4 (*c*).

24. If motion No. 21 be carried, the Hon'ble Mr. Apcar to move that the word "four" be substituted for the word "three" in clause 4 (*c*).

[*Babu Deba Prasad Sarbadhikari.*]

25. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after sub-clause (*d1*) [*now sub-clause* (*e*)] of clause 4, the following be inserted, namely:—

(*dd*) a member of the British Indian Association.

He said:—

"Sir,—It was an intelligent and an irresistible anticipation of events, that made me hesitate to fruitlessly seek to disturb the figure 11 as it stands in the Bill. My amendment merely seeks a slight readjustment in the assignment of the seats, so that a representative of a body which is not purely commercial—such as the Bengal Chamber of Commerce and the National Chamber of Commerce, must be taken to be—may come in, and I ask that, instead of the Government reserving to itself four out of the 11 members under sub-clause (*e*) [*now sub-clause* (*f*)] of clause 4, one should be given to this public body, and the Government should have at its disposal *three* instead of *four*. The principle of associating representatives of public bodies with the Trust did not find acceptance in the earlier stages of the consideration of the Bill, when, in the interests of secrecy, promptitude and continuity, the Government of India of 1907 did not see its way to recommend a larger body than six. But a change came over the Councils of the Government in 1908, when the Hon'ble Mr. John Morley, as he then was, while agreeing that the Board should not be a large body, thought that Trustees should be elected by the Municipal Corporation, and perhaps by other bodies. That was in 1908, and the only other body that was accepted as fit to return such a representative was the Bengal Chamber of Commerce. When the matter came up before the Select Committee, the Select Committee was good enough to add the National Chamber of Commerce as well, for which, I am sure, we are all thankful. But I am afraid, Sir, the representation of other public bodies, contemplated by the Hon'ble Mr. Morley, does not go far enough even with the concession that the Select Committee has made, and it is necessary that some public body that is not representative of any particular interest and limited, should have the opportunity of sending a representative to this Board. After careful consideration, I thought that the British Indian Association might fittingly have that concession. Sir, so much has already been said about landlordism and anti-landlordism that I shall not attempt to cover the same ground, at this stage of the debate. Although the British Indian Association is popularly believed to be, and is also called, a landlords' association, I can, without fear of contradiction or challenge, claim that it is no such thing. My Hon'ble friend, Babu Bhupendra Nath Basu, and myself, whom the landlords proper would object to term as landlords, happen to be members of that association. I have been carefully going through the list of 160 members of the British Indian Association that constitute that body at the present moment, and the most exaggerated of imaginations would find it impossible to declare that body to be purely an association of landlords. In view of this, there can be no objection to my amendment on the part of those who would like to keep direct representation of landlords out of the Board, if possible. The British Indian Association, Sir, does consist, no doubt, of a fair and, I am prepared to say, even a large, body of landlords owning lands both in Calcutta and within the Province. But it also consists of merchants, of professional men, like my hon'ble friend and myself, who cannot aspire to rank as landlords in the larger, and as some would like to call, the proper, sense of that term. That being so, I thought that it would be a body that could fittingly receive the honour of appointing a delegate to this Board. When a question like this came up before this Council in connection with the present Municipal Bill, it was urged, though not without much effect, that the British Indian Association should be one of the bodies allowed to return members to the Corporation. Sir Edward Baker,—with regard to whose absence from this Council at the consideration of this vastly important measure I desire to associate myself with what fell from Your Honour on the previous occasion,—was in charge of the Municipal Bill at the moment that this particular question came up. And in referring to the various bodies who were aspirants for the honour of representation on the Corporation, the Hon'ble Mr. Baker observed: 'I now turn to the amendment of the Hon'ble Babu Jatra Mohan Sen, which is, on the whole, a moderate amendment. He proposes to reduce the representatives of the Chamber of Commerce and the

[*Babu Deba Prasad Sarbadhikari.*]

Trades Association to three each; he would assign two seats to the Bengal National Chamber of Commerce, two seats to the Muhammadan Association and two to the University.' The representative of the University has not thought fit on the present occasion, to put forward the claims of University representation, but does press the claims of the British Indian Association which were admitted on that occasion by the Hon'ble Mr. Baker, who proceeded to say: 'The first thing that occurs to one, on looking at these proposals, is that the one association in Calcutta which would have a prior claim to special representation, if we were giving any, is left out,—I mean the British Indian Association. The Hon'ble Member felt, I think (that was Babu Jatra Mohan Sen, who had not a word to say about the association) the weakness of his position in omitting that body, because he said that it would be for the Government to appoint representatives from that association. But if we are going to give in the body of the Act special representation to any additional association, I think there can be no question that the British Indian Association has the first claim.' I should have liked to remind Sir Edward Baker now of his observations on that occasion, if he was here, and, with no less confidence, I remind Your Honour and this Council of what fell from the responsible adviser of Government on that occasion. The principle that representatives of other public bodies should be associated in the Trust has been fully conceded by the Hon'ble Mr. John Morley, although he advocated that the Trust should not be large, and in not moving for a larger number, I have accepted what Lord Morley laid down and which has been carried out by the Select Committee; but I repeat that the essence of the concession made by Lord Morley, coupled with what the Hon'ble Mr. Baker said on the occasion to which I have referred, makes it abundantly clear that that principle has not been fully given effect to. The one association which could possibly be allowed to have any representative, if any, and which would have occurred to Sir Edward Baker, is the British Indian Association, which has been left out, and I believe that that association should be allowed a representative, which can easily be arranged if the Government, instead of reserving to itself the four seats mentioned in clause 4 (*e*), [*now 4* (*f*)] were to give up one, and make a present of it to the body that I name. Sir, the question of the representatives of landlords as such, in the sense of those who are responsible for correcting the insanitary evils that the Bill seeks to combat, has been referred to on more than one occasion in the course of this morning's debate, and the Hon'ble Member in charge of the Bill has observed that in a trial it would be out of the question to allow the accused to participate in the trial, although he would be vitally affected and interested in the result of that trial. If, Sir, landlords are to rank as the accused in the present case, it is difficult to see why they are to be denied representation for that reason, when the Government and the Corporation, who would also be the co-accused in the case, should not be denied similar representation. Who is it that is responsible for the present state of things? Have the Government and the Corporation no share in the blame that is to be attached for the existing state of things? Let the report of the Beverley Commission answer, and in any event the peers of the accused ought to have a place on the bench at such a trial. There is no need to go into an elaborate analysis and apportionment of the blame that could be apportioned, if there was any need to do so; but the Buildings Commission, the recommendations of which are the real basis of what we are proceeding with to-day, made it quite clear that those who had been responsible for the insanitary administration before the Municipal Act came into force were as much responsible for the present state of things as those that came afterwards; and, therefore, the Corporation, who had powers given to it and never exercised those powers, are, to an extent, responsible for the present state of things. I can recall to mind one instance in the neighbourhood of the Jellia Para Nebutollah Lanes *Bustees*, schemes for improvement of which had been before the Corporation for twenty years, and ever since I was a member of that Corporation: a workable scheme was sanctioned, a notification was issued, and lands were forbidden to be built upon. They proceeded so far, and then, somehow or other, the scheme was abandoned. If the scheme had been carried out, we should have had a fine road in the neighbourhood. The insanitary slums, which plague and other diseases visit first, infest the longest and leave the last, would have been a

thing of the past. But it has not been done and it was not to be, because there was unaccountable vacillation. I am not impeaching the Corporation with regard to that, but I am only illustrating the correctness of my proposition that, if the landlords of Calcutta are to rank as the accused in this case and, therefore, to be denied representation, the Government and the Corporation occupy a similar position, though they may not be culprits to the same degree, perhaps, as the landlords, with regard to whom I, for one moment, accept the use of this obnoxious epithet. Therefore, there is nothing in an argument like this that the landlords' interest ought not to have any direct representation, because they are in the position of an accused, and, therefore, although vitally interested in the trial, they cannot be allowed to take part.

"Sir, the framers of this Bill have, no doubt, gone largely on the analogy of what is happening in England with regard to a very restricted area. The reason why more had not been done in London, with a population as large as that of Ireland, was because of the leasehold system that has been referred to with great effect by the Hon'ble Babu Bhupendra Nath Basu, and I will not detract from that eloquent pronouncement by any observations of my own; but we have nothing like that in this country, as here it is a case mostly of people living in their own houses, and that dignifies them into the position of landholders. That is a mistaken state of things which, I think, ought not to be allowed to colour our deliberations, which are very much more comprehensive than those relating to the little consequential Acts which British legislation of late has thought of. Ideas and opinions are very much in advance now in England of those that have always prevailed in this country and still prevail with regard to many matters and we should be careful as to how we introduce premature *ultra* socialistic ideas as to property here. However that may be, it is not the question of revision of leasehold estates so far as my amendment is concerned. I seek to plead for the representation of a cultured and enlightened public body, which, ever since public life began in this country, has admittedly been doing great service, and which is not a purely landlords' association—which admits to its membership those that cannot claim to be landlords; it contains members of the learned professions, merchants and other representative people, men of light and leading who can assist the Government in their deliberations. That is the work that the association has so long been doing, and that is the association on whose behalf I claim the acceptance of this amendment."

The Hon'ble Mr. M. S. Das said: —

"Your Honour,—I have not made a study of the interests of the different classes of the population who are either likely to benefit or to be affected prejudicially by the Bill before the Council, and I did not, I confess, make a special study of the Bill. One thing I notice, that there is a provision in the Bill that people who come to Calcutta and go from Calcutta are to be subjected to a certain taxation. That provision affects us—outsiders. Sir, we all admit that the discussion that has taken place to-day makes it clear that sanitary improvements in Calcutta are necessary. We are all agreed there; so there is no good likely to come from crimination or recrimination as to whether the Government or the Corporation or the people are responsible for the present insanitary condition which does exist, or, if they are all liable to blame, in what share the blame should be apportioned to each. The fact is that a common danger exists, and official and non-official, rich or poor, agree that this present condition should be removed. There was at first, in the early part of the discussion, some cloud hanging over it. It was not clear what was aimed at, but the storm of discussion, which has just preceded, has cleared up that cloud, and the question at issue is, whether the landholders should have any representation or not. The Hon'ble Mr. Bompas has used an illustration saying that the accused has a very great interest in the trial, but he is not allowed to give his opinion or decide the case. On the contrary, the Hon'ble Babu Bhupendra Nath Basu has said that he does not claim a preponderance in the constitution of the Trust of the landlord class; what he claims is that their representative should have a seat there. They should have a representative who will be able to bring before the Trustees how the working of the Trust affects the interests of that class. He takes actually what the Hon'ble Mr. Bompas would describe

as the position of the accused The accused has not the right to decide his case, but his mouth is not gagged. Is it not his right to have somebody who can speak on his behalf? He has not only that right, but he has the right to put his version of the case in the Court and to get the services of the best possible lawyers available to speak on his behalf. It must be admitted that there will be men in the Trust who are foreigners, and I think there should be men of the country who would be in a position to bring before the Trust the actual feelings of the people; and I suppose no wise Government, in embarking on a measure like this which affects the interests of the people who are to be deprived of their ancestral homes and seats, should ignore popular feelings. The Hon'ble Mover of this amendment says that the British Indian Association is not an association composed entirely of landlords, but I was all along under the impression that it is composed of big and small landlords residing throughout Bengal, and most of them are very wealthy and big zamindars. I am anxious to see that a popular grievance of that nature should be removed, and I do not think that the presence of one man is likely to upset the decisions or the arrangements of the Trust. The Hon'ble Member does not give any definite information as to whether a landholder is likely to be returned from the British Indian Association. In case this is guaranteed, that the Hon'ble Mover is sure that the landholders, whose interests are chiefly affected, will be represented by an election by the British Indian Association—if this be the undertaking, I would certainly support the amendment."

The Hon'ble THE MAHARAJADHIRAJA BAHADUR OF BURDWAN said:—

"Your Honour,—I thought I would be spared making a speech at this stage of the Calcutta Improvement Bill. So far, though the debate has been animated, it has not been insanitary; but I am sorry that in this Council the Hon'ble Mr. Das has introduced an insanitary element. He has confessed that he knows nothing or has read very little of the Improvement Bill, and then he has further confessed his ignorance about an association regarding which he knows nothing and about which he is groping in the dark. The British Indian Association, of which I have the privilege and honour to be the President at the present moment, is situated in the heart of Calcutta, and I think it would be of the greatest help to the Hon'ble Mr. Das if he went to 18, British Indian Street, and studied the annals of that association. The reason that my hon'ble friend, Babu Deba Prasad Sarbadhikari, has proposed that, instead of increasing the number of Trustees, a member of the British Indian Association may be appointed as a Trustee, is that the British Indian Association, as at present constituted, is certainly not purely a landholders' association. In the past it has been the father of all the associations—political and otherwise—of Bengal. In the present, while representing the interests of landholders, it has not failed in its duty to bring before the public matters of importance, which not only have affected the landholders, but the general public, and that has been the glory of the British Indian Association in the past. What its future will be, at the present moment, one cannot say, but it cannot be doubted that if we have a member, as advocated by my hon'ble friend, Babu Deba Prasad Sarbadhikari, appointed through the British Indian Association, he will not only be able to represent the interests of the landholders in the province, but also of the poor landholders of Calcutta. We have come in for a bad time, because the Hon'ble Mr. Bompas happens to be in an unfortunate mood to-day towards the landholders of Calcutta. What I say is this, that of course I do not refute the argument that the members, who will be appointed by the Calcutta Corporation, will also indirectly represent the interests of the land-holding classes of Calcutta; but what crime have the landholders of Calcutta done not to be directly represented? Moreover, by electing a man through the British Indian Association or allowing that association the privilege to have one of its members as a Trustee, you will not only give, what I may say, a practically direct representation to the Calcutta landowners, but you will also have a man who will be able to represent other interests as well, and that will take away the venom that the Hon'ble Mr. Bompas thinks the landlords are showing by voicing their interests. Of course, I know what the fate of this amendment will be, but, as President of this ancient and honourable association, I deem it my duty to support my hon'ble friend, Babu Deba Prasad Sarbadhikari."

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble Mr. Bompas said :—

"This amendment, I may say, is a sort of flank attack. Other amendments, which aimed at raising the number of members on the Board, having failed, the Hon'ble Member now tries to deprive me of one of the nominated seats, and he says that one of the members of the Trust should be taken from the British Indian Association, and he says that it is not an Association of landlords. I am sorry that amendment No. 27 will no longer be moved, as I might then have left it to the Hon'ble Rai Sita Nath Ray Bahadur to show that, at least in his opinion, the British Indian Association is an Association of landlords. If the British Indian Association is not an Association of landlords, not even of Calcutta landlords, the mover of this amendment does not give us any reason why that body, of all public bodies, should be represented. I suggest that we need stronger recommendation for nominating a member from that body in particular. It would be unwise to fetter the discretion of Government in the selection of the member nominated by it. The work of the Trust will be very important, and a great deal of it of a technical nature. It is very important that all the nominated members should be men of very first-rate qualifications for work of that nature. Those members, who are elected as representatives of other public bodies, may be elected with an eye to their general competence and their claims to represent the body which elects them. This makes it more important that Government should be absolutely at liberty to appoint, as its nominees, men selected solely as being the most competent persons in Calcutta to assist in carrying on the work of the Trust, and I would strongly oppose fettering the discretion of Government in any way.

"As regards the particular amendment before us, I beg to submit, although we have heard from the Maharajadhiraja Bahadur of Burdwan more about the exact nature of the British Indian Association, still I submit that no sufficient reason has been given for choosing that Association of all others, when it is not even a Calcutta Association, to be given the right to have one of its members appointed as a Trustee under this Bill."

The Hon'ble Babu Deba Prasad Sarbadhikari said :—

"Sir,—If the movement represented by this amendment has been a flank movement, it has certainly been a frank one. There is no doubt that the amendment is actuated by a certain amount of that superstition which the Hon'ble Member in charge would so much like to discount—superstition which is the salt of this life and of the life hereafter, and for which some of us might be all the better. I frankly confess, Sir, that that superstition has to a certain extent actuated my choice of this reverend and revered body—a body, if for one moment I may be allowed to be remotely personal, to which Your Honour's Government and the Government of India and the Secretary of State went when they thought of appointing the first Indian Member of the Executive Council of this Province. Sir, we have been told an astounding thing to-day, that, in considering the claims of the British Indian Association to send a representative to this Board, we must steer clear of the possible difficulty of an absolute layman coming in by reason only of his standing in that society or in society in general. Lest the dotards of the British Indian Association, in their softness and innocence, should send somebody who will know nothing of the work, the arduous work before the Board, let us not have anything to do with that body: that is what it comes to. It comes to that when you analyse that portion of the argument of the Hon'ble Member in charge. If what has been referred to by the Hon'ble Member in charge with much *naiveté*, is likely to be the incentive to the choice of a representative, and not position or competence for the work, what guarantee is there that the Corporation, three of whose present and past Chairmen I see here in this Council to-day, will not fail in its duty and make a choice that would be open to the observations that have fallen from the Hon'ble Member in charge? And I ask the same question about the Bengal Chamber of Commerce and the National Chamber of Commerce. Sir, arguments like these must not be allowed to cloud the issues. The Hon'ble Mr. Das, who has been followed in the same argument by the Hon'ble Member in charge of the Bill, says:

'You want a landlord representative; you say the British Indian Association is not a landlords' association; *ergo*, the British Indian Association cannot be allowed to send a representative.' Where have I said that I want a landlord representative? I want men, men no doubt preferably aware of the state of things with regard to the so-called landlordism, men such as the British Indian Association would be able to send. Sir, if I may refer to an amendment that follows (and this amendment of mine will be sure to follow the fate of those that have preceded it) it says that the member of the British Indian Association who is to come on to the Board is to be selected under rules to be framed by the Government. That amendment does not even ask that that Association should determine for itself the class of people they should send. Therefore, that argument has absolutely no application to the proposition that I venture to bring forward before this Council. Directly or otherwise, no one need under any of the different sub-clauses of clause 4 be a landlord. As has been pointed out by the Hon'ble Babu Bhupendra Nath Basu, the first two are out of the consideration so far as that goes. The third may be. During much of the time that I was a member of the Corporation,—it is impossible to get out of some personal matters now and again,—I was not the owner of a single chittack of land in Calcutta. It is possible for one to be a member of the Corporation without being the owner of a single chittack of land, as by paying the professional license or the carriage license, one can be a Commissioner, and it is no shame or humiliation to me to confess that, during the long years that I have spent on the Corporation, I could not even by courtesy be called a landlord. And yet I could have been a member of the Board, if my colleagues placed in me the same repose that they did when they sent me as their representative to the Imperial Library at the head of the poll. Sir, then I come to (*d*) - the Chamber of Commerce. My hon'ble friend to the left has made a frank confession that if he was not the landlord he would be happier: that is a general feeling among Europeans here; they will not own land if they can possibly help it, and yet they are to have direct representation because certainly they represent commerce, and Indian commerce is also allowed to be represented. The Hon'ble Member in charge incidentally said that he took it that the member for the Bengal National Chamber of Commerce will be a landlord. Why should it be so? There are merchants in Calcutta doing very large business, who are not landlords and who live in tenanted houses. I have no doubt that if there is a proper representation, one of the four that will be at the disposal of Your Honour's Government may possibly be a landlord, but in putting the amendment, without positively claiming it, I wanted to provide that there would be a possibility for a landlord being a member of the Board from the British Indian Association, which represents the landowning as well as other interests. It would be impossible to think of an association, although it has its members in the province, and is 'not even a Calcutta Association' according to the Hon'ble Mr. Bompas, which 'represents no body.' In spite of such disparaging opinion, it is largely representative of all the interests that we could possibly think of, and in saying so, it was not my own *obiter* that I was putting forward, I have the high authority of the Hon'ble Sir Edward Baker, which I have read to this Council, and to which, I think with advantage, reference could be made again in this connection. I would also refer to the Buildings Commission which advocated the claims of this body to such representation. If there was any association, said Mr. Baker, the prior claim was that of the British Indian Association, and he would give them and no others; and that is the body whose claims I advocate. The observations of the Hon'ble Mr. Das and the Hon'ble Member in charge have therefore no application. The Hon'ble Member in charge has referred to the observation of the President of the British Indian Association, who promptly came to my rescue and who said more vigorously and effectively what could be said, than what I have been able to say. I cannot say, Sir, that I am leaving this amendment in the hands of this Council in a very hopeful mood, but I certainly leave it with the sense that I am discharging a duty which, I think, I owe to the general ratepayers of Calcutta, who are fully represented by the British Indian Association outside the Corporation."

[*Babu Deba Prasad Sarbadhikari.*]

A division was then taken with the following result:—

Ayes 16.

The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.
The Hon'ble Babu Bhupendra Nath Basu.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.
The Hon'ble Maharaja Manindra Chandra Nandi.
The Hon'ble Babu Deba Prasad Sarbadhikari.
The Hon'ble Mr. J. G. Apear.
The Hon'ble Mr. Golam Hossein Cassim Ariff.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B Dutt.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.
The Hon'ble Rai Baikuntha Nath Sen Bahadur
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. Dip Narayan Singh.

Noes 26.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Mr. E. W. Collin
The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Mr. T. Butler.
The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. J. G. Cumming
The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Mr. S. L. Maddox.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr. G. W. Kuehler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C H. Bompas.
The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr F. H. Stewart.
The Hon'ble Mr. W. J Bradshaw.
The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Mr. T R. Filgate.
The Hon'ble Mr. M. S. Das.

The following Members were absent:—

The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Dr. Abdullah-al Mamun Suhrawardy.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The following Members abstained from voting:—

The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Babu Bal Krishna Sahay.

The result of the division was ayes 16, noes 26, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

26. If Motion No. 22 be carried, the Hon'ble Rai Baikuntha Nath Sen Bahadur to move that, after sub-clause (*d1*) [*now sub-clause* (*e*)] of clause 4, the following be inserted, namely:—

(*d2*) a member of the British Indian Association.

27. If Motion No. 20 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that, after clause 4 (*d1*), [*now 4* (*e*)] the following be inserted, namely:—

(*d2*) a member of the British Indian Association or any other association of landholders.

[*Rai Sita Nath Ray Bahadur; Babu Bhupendra Nath Basu; Mr. Bompas.*]

"I am glad to find that I am not quite unsupported in my views. I note with great satisfaction that a similar amendment has been proposed by my friend, the Hon'ble Rai Sita Nath Ray Bahadur.

"Sir, I am perfectly confident that Your Honour and this Council will give best consideration to the request and will approve of the amendment."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I beg to say that my amendment has not been properly put here. My amendment was to the effect that, of the four persons appointed by Government, one would be a non-official Muhammadan, and my reasons for this are that it would be a good thing to have a Muhammadan, as it would be useless for me to proceed in attempting to raise the number of Trustees. So my amendment is that, out of the four persons nominated by Government, one should be a non-official Muhammadan."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I have much pleasure in supporting the amendment moved by my hon'ble friend, Maulvi Saiyid Muhammad Fakhr ud-din. The Hon'ble Mr. Bompas will admit that, in this case at least, no question of landlord arises. The Muhammadan community of Calcutta are certainly vitally interested in the work of the Board, and it is fit and proper that they should have representation on that Board. I conceive that if no Muhammadan comes in under the other provisions, the Government will probably appoint a non-official Muhammadan under sub-clause (*e*) [*now sub-clause* (*f*)]; but it must be admitted that that would be doing little justice to the Muhammadan community. The Muhammadans would naturally want to have a man whom they would elect and in whom they would have confidence and who will bear their mandate. The effect of giving to the Muhammadan community powers to send their own representatives is well illustrated by their attitude in this Council and elsewhere, and we welcome independent Muhammadan gentlemen to all deliberative bodies where they can act according to their own judgment and according to the dictates of their own conscience. I think the case that my friend has made out is a very strong case, and the Government, I hope, will see its way to accept this suggestion by reducing the number of its own nominations from four to three."

The Hon'ble MR. BOMPAS said:—

"Sir,— Amendments 30 and 31, as they stand on the agenda, are identical. The Hon'ble Rai Sita Nath Ray Bahadur has explained that the amendment that he intends to move is different, and I assume that we are not now considering his suggestion. The amendment of the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din cannot be accepted by me on the general ground that, as I mentioned before, it is very desirable that Government should retain an unfettered power in nominating its four members on the Trust in order that it may, as far as possible, secure four pre-eminently competent men resident in Calcutta to carry on the very important executive work of the Trust. Also I cannot see that, in a body of this size and constituted to perform these duties, it is necessary to insist on the members representing any or all of the numerous communities which make up the population of Calcutta. If the Muhammadan community is to be entitled to one seat on the Board, there is the claim which has been advanced by the Eurasian community, the housing of which community is one of the most important problems in Calcutta. The Marwari community is a very important community and will be much affected by the operations of the Trust, and similar claims will arise. I do admit that questions may come under the cognizance of the Trust, in which Muhammadans, as Muhammadans,

will be particularly interested, and I submit that clauses 17A (*now 19*) and 18 (*now 20*) of the Bill exactly meet that difficulty. These are clauses which have no corresponding provisions in the Bombay Act, which are novel and at the same time useful. Supposing a question arises regarding the way in which the acquisition of a Muhammadan mosque, burial ground or a *wakf* property is to be effected, the Board can always associate with itself some of the leading Muhammadans of Calcutta. It is open to the Board to appoint a Muhammadan committee under clause 18 (*now 20*) of the Bill, for sitting on which the members will draw allowances and which will be a legally appointed body to carry on work.

"I think that these provisions exactly meet the case and afford ample facilities for dealing with questions which affect particular communities in a manner satisfactory to those communities."

A division was then taken, with the following result:—

Ayes 15.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Babu Bhupendra Nath Basu

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr J. G. Apear

The Hon'ble Mr. Golam Hossein Cassim Ariff

The Hon'ble Mr Saiyid Wasi Ahmad

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad

The Hon'ble Mr. Dip Narayan Singh.

Noes 27.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur

The Hon'ble Mr R T Greer, C.S.I

The Hon'ble Mr. D. J. Macpherson, C.I.E

The Hon'ble Mr E W. Collin.

The Hon'ble Mr J H. E. Garrett

The Hon'ble Mr T. Butler

The Hon'ble Mr E. P. Chapman.

The Hon'ble Mr. J G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E

The Hon'ble Mr. B. K. Finnimore

The Hon'ble Mr S. L. Maddox.

The Hon'ble Mr. B. C. Mitra

The Hon'ble Mr. G. W. Kuchler

The Hon'ble Mr L. F. Morshead.

The Hon'ble Mr. C H Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Mr C. F Payne

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr F. H Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din

The Hon'ble Mr. T. R. Filgate.

The following Members were absent:—

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. K. B. Dutt.

[*Rai Sita Nath Ray Bahadur; Mr. Bompas; Maulvi Saiyid Muhammad Fakhr-ud-din.*]

The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Babu Bal Krishna Sahay abstained from voting.

The result of the division was ayes 15, noes 27, and the motion was therefore lost.

31. The Hon'ble Rai Sita Nath Ray Bahadur moved that, after sub-clause (*d1*) [*now sub-clause (e)*] of clause 4, the following be inserted, namely:—

(*d2*) a non-official Muhammadan.

The Hon'ble Mr. Bompas said:—

"Sir,—My objection to this amendment is the same as to the amendments that have been moved recently. It is inadvisable that Government should be fettered in the selection of the four persons whom it nominates to the Trust. I have already explained that this Bill contains ample provisions for the representation of Muhammadan interests in regard to any question in which those interests are particularly involved."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

32. If Motion No. 25 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "three" be substituted for the word "four", in clause 4 (*e*) [*now 4 (f)*].

33. If Motion No. 29 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the word "three" be substituted for the word "four", in clause 4 (*e*) [*now 4 (f)*].

34. If Motion No. 30 be carried, the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the word "three" be substituted for the word "four", in clause 4 (*e*) [*now 4 (f)*].

Clause 5.

35. If Motion No. 27 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and the Member referred to in clause (*d2*) of section 4" be inserted after the words "The President", in line 1 of clause 5.

36. If Motions Nos. 19 and 28 be not carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "two of" be inserted before the words "the four persons", in line 1 of clause 5.

37. If Motion No. 32 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "three" be substituted for the word "four", in line 1 of clause 5.

38. If Motion No. 33 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the word "three" be substituted for the word "four", in line 1 of clause 5.

39. If Motion No. 34 be carried, the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the word "three" be substituted for the word "four", in line 1 of clause 5.

40. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din moved that the words "one of whom shall be a Muhammadan" be inserted after the words "section 4", in line 2 of clause 5,

He said:—

"Your Honour,—When I have found myself unfortunate in respect of my first amendment, what hope can I now entertain in respect of this amendment? This is an amendment in the alternative form. This amendment is exactly the same as has just been pressed by the Hon'ble Rai Sita Nath Ray Bahadur

and lost. Naturally my amendment will share the same fate. However, I am in duty bound to press this amendment. I have already discussed the utility and the desirability of having at least a competent Muhammadan member on the Board of Trustees, and I do not intend to take up the valuable time of Your Honour and this Council by repeating the same discussions. Suffice it to say that Muhammadans are anxious to safeguard their interest, and it is necessary to satisfy them by putting a Muhammadan on the Board. Though the right has been denied to the Muhammadan associations of returning members by means of popular election, though the nominees of Government can hardly be excluded from the category of officials, though such nominees will be more under the influence of Government than that of the people in general, yet I believe that, as a last resort, I should be content with a Government nominee who might be of some use to the Muhammadans in safeguarding their interest. Hence I propose that there ought to be a clear provision in the Act that, out of the four nominees to be appointed by Government, at least one should be a Muhammadan. With these observations I move the amendment."

The Hon'ble Mr. Bompas said:—

"I oppose this amendment.

"I do not think I need repeat all that I have said when asking the Council to reject amendment 31 by the Hon'ble Rai Sita Nath Ray Bahadur."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

41. If Motion No. 20 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and one of such four persons shall be a non-official Muhammadan" be inserted at the end of clause 5.

42. If Motion No. 36 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that, to clause 5, the following be added, namely:—

> (*z*) Two of the four persons referred to in clause (*e*) of section 4 shall be landholders of Calcutta.

43. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, to clause 5, the following be added, namely:—

> (*z*) Two of the persons referred to in clause (*e*) of section 4 shall be persons who pay the owner's share of the consolidated rate and other municipal taxes in their own right, to the extent of not less than three hundred rupees a year.

He said:—

"Sir,—It may be said that here also there is a desire to hamper the selection of Government. So far as the qualification that I propose will have that effect, the choice may to some extent be no doubt restricted. But that restriction will not apply to the remaining two. It is of importance that, amongst those who are selected by Government, there should be some at all events who have some stake of the kind that this amendment contemplates. As we have heard, direct representation of the landowning-interest is considered objectionable, and, as the failure of the previous amendment has given effect to that idea of things, it is of importance that the owner-ratepayers' point of view should be brought before the Board in some way or other. As on a previous occasion I indicated that it would be quite possible for all the three members selected by the Corporation to be non-ratepayers, although they may be tax-payers, the Hon'ble Member in charge of the Bill has found new reasons, apparently since the adjournment, why the landowning classes should be kept out. The iniquity and bad draftsmanship of the memorial which they and they alone are

supposed to have adopted at the Town Hall meeting—although we have no evidence in support of that conjecture—further disqualifies them from having any representation. He practically urges that none but indifferent persons should have a place on the Board. If some persons have views and opinions like those mentioned in the memorial so strongly condemned by the Hon'ble Mr. Bompas, they would not be disqualified by that reason from sitting on the Trust. The experiences of the Universities Act show that those who were strongly against it in the Bill stage are loyally administering it in the Act shape. Moreover, the memorialists are fondly hoping that the Bill would be recast somewhat on the lines of their suggestions in this Council and thus rendered less harmful and objectionable. It ought not to be said that those who are capable of expressing opinions like these ought to be ruthlessly excluded from the Board. Similar observations would not, however, apply to Government nominees, in whose case we desire by this amendment that some stake of the kind that we propose ought to be insisted on. If they are otherwise qualified and if they do not happen to possess extremist views like those enunciated in that memorial, and if, at the same time, they know something of the real troubles and grievances and difficulties of the owner-ratepayers, it would be an advantage that the Government would welcome. In this amendment there is a very slight attempt, and not a flank attempt, to get in two, at all events, out of the 11 members, who will assuredly be *bonâ fide* ratepayers, and not merely tax-payers."

The Hon'ble MR. BOMPAS said :—

"Sir,—I must oppose this amendment on the same ground that I have opposed the previous one. The Government of India have entrusted to this Trust Rs. 50 lakhs down, and have promised to pay 1½ lakhs a year from the general revenues of the country—proceeds from taxes on railway passengers and an export tax on jute. Obviously, in doing so, Government incur a serious responsibility, as I have said before, in seeing that these funds are applied to the very best advantage, and it is very important that in securing that object Government should leave to the body of the Trustees an unfettered discretion. I do not say that the hon'ble mover of the amendment has said anything to convince us that persons who pay the owner's share are people for whom we should more particularly legislate and supply them with two seats out of 11. Why should we not say that the people who pay the tenant's share have a claim to two seats out of the 11? It is known that in the existing condition of Calcutta that their position is worse than that of the owners of property, and I have not yet heard to-day a voice uplifted on their behalf. I oppose this amendment."

The motion was then put and lost.

Clause 7 (1).

The following motions were, by leave of the President, withdrawn :—

44. If motion No. 23 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "four" be substituted for the word "three", in line 1 of clause 7 (*1*).

45. If Motion No. 24 be carried, the Hon'ble Mr. Apcar to move that the word "four" be substituted for the word "three", in line 1 of clause 7 (*1*).

46. The Hon'ble Babu Bhupendra Nath Basu moved that the word "two" be substituted for the word "one", in clause 7 (*1*) (*a*) [*now 7 (1) (b).*]

He said :—

"Sir,—I believe we are at one with the idea that, when the number was enhanced by four, one should be given to the Bengal National Chamber of Commerce, and that another should be given to the Corporation, and then the

question was as to how this seat was to be filled up. There was no idea of any one of us at first of adjusting the different elements in the Corporation.

"It is a matter of adjustment of three seats in the Corporation In this adjustment, a rough-and-ready way was come to. One was given to the nominated Commissioners, and one was given to the Corporation as a whole. I have nothing to find fault with this arrangement But, then, if you take the whole group together, and take all the seats and analyse the elements which send up the three members from the different groups to the Corporation, you find that, of the additional four seats placed at the disposal of the Trust, *three* are being appropriated by Government The understanding was that *two* should be appropriated, and why, I say, three are being appropriated, is this: that the member who will be returned by the nominated Commissioners, these gentlemen being Government nominees and being a preponderating number in the 25 nominated Commissioners, is practically in essence a Government nominee, and therefore, instead of Government having two, as it was understood, it is going to have three, and I therefore hope that my suggestion would be accepted, because these gentlemen, who are Government nominees, have got their representation—I mean the Government nominees themselves so far as they are only representatives of Government, and Government itself has got representation on the Board. As regards the other gentlemen, the members of the trades and commerce, they have got a direct representation on the Board, and consequently it does not affect them, whereas it does affect the purely non-official representation in the constitution of the Trust, and that is why I press this amendment."

The Hon'ble MR. BOMPAS said:—

"Sir,—I oppose this amendment. I do not propose to follow the Hon'ble Babu Bhupendra Nath Basu in the subjects which he raised in moving it, because they seem to take him rather far afield, and to be more properly discussed in connection with some of the subsequent clauses in this Bill. The question before us is a simple one. It is recognised that the Corporation of Calcutta has a very large interest in the working of the Trust. It has a very large financial interest, and it is vitally interested in effecting the schemes of improvement of the town, and it has eventually to take over the responsibilities and, what is more important, the assets of the Trust. The question, therefore, is a simple one. How can the Corporation be best represented on the Improvement Trust? It is represented by its Chairman and, as the Bill has left the Select Committee, it is represented by three elected members. When this Bill was introduced in Council there were only two elected members from the Corporation, and as the Bill was introduced it was proposed that one member should be elected by the Ward Commissioners and one by the Commissioners appointed under sub-section (2) of section 8 of the Calcutta Municipal Act, 1899. That seemed to be a reasonable means of obtaining a satisfactory representation of the Corporation. In the Select Committee, it was decided that the representation of the Corporation should be increased, and an additional member was proposed The question then arose, how that member should be elected. We had the benefit, on the Select Committee, of the Hon'ble Mr. Apcar who represents the Corporation in this Council. So far as my recollection goes, it was certainly his advice that the member elected should be elected by the Corporation as a whole."

The Hon'ble MR. APCAR said:—

"May I explain, Sir? I was outvoted and said that I would bring this question up before Council."

The Hon'ble MR. BOMPAS said:—

"I am very sorry that my recollection was at fault, and that I have done injustice to the Hon'ble Mr. Apcar, but I think that I am not in fault in saying that this proposition was accepted without any serious discussion. I do not follow the mover of the amendment in his objection to the Corporation being represented by a Commissioner appointed under sub-section (2), section 8. I have the good fortune of being a member of the Corporation, and I have certainly failed to see any reason for believing that the members who sit on the Corporation, by virtue of this section, are any less devoted to their duties in the Corporation than the elected members. I claim that they are as

much members of the Corporation as the members elected under sub-clause (*1*), and I, for my part, have seen no sign that any one of them is ashamed of the position that he occupies. In Select Committee, we had merely to add one representative of the Corporation and it seemed most natural and simple that he should be elected by the Corporation as a whole.

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—I had hoped in this instance that I would not have met with strong opposition from the Hon'ble Member in charge, for it does not affect the Government at all. He seems to think that Government is entitled to have a completely upperhand over the deliberations and working of the Trust by a payment of Rs. 50 lakhs towards the improvement of a city. A Commission appointed by Government found that Government was largely responsible for the present state of affairs in Calcutta. I believe the Hon'ble Member, who is a new comer to Calcutta, is ignorant that up to 1888 there was no legislation by the Government of India or by the Government of Bengal which in any way sought to improve the sanitary condition of Calcutta buildings. It was in 1888 that the Municipal Act was passed, amalgamating the suburbs of Calcutta, and it was for the first time that sanitary ideas were introduced into the working of the Municipality of Calcutta, and I believe it is nothing strange to him that sanitary ideas were in their infancy in England until a very recent time, and I believe no Government in Europe would say that because we make a contribution, however large it may be, towards the improvement of an area for whose state of things we are responsible, that you people who are now affected must have a subordinate part, and we must have an upper and preponderating part in the working of the institution which will carry out the reform. This is a claim which has been put forward for the first time by any responsible Government—a claim which, I must tell my friend, is absolutely unjustifiable and, if I may use a strong expression, preposterous, because, what is the extent of the contribution of the Government of India? My friend says there is the jute tax, there is the terminal tax. Well, the jute tax is protected by two members of the Bengal Chamber of Commerce and one by the National Chamber of Commerce, and I suppose that is a sufficient protection. How much does my friend expect that the terminal charges will bring into the funds of the Trust and what proportion will have to be borne by the rate-paying public of Calcutta As regards those who have to come to Calcutta paying the terminal charges, I suppose my friend will admit that they enjoy much of the amenities which Calcutta provides for the comfort and convenience of those who live or spend some time in it But apart from that consideration, we have never claimed that we should have a preponderating voice in the administration of this Trust. I do not see, nor can I understand, from where my friend brings forth that suggestion of preponderating influence in this Trust. We want some representation. Well, I am, on the other hand, disposed to think that, though the Government should have a preponderating, or may have a preponderating, influence, it ought not to have an overwhelming influence. My friend says that if need be the landlords or the Muhammadans or people like these may be consulted; but there is such a thing, I may tell my friend, even in India, as self-respect, and if we feel that we are merely advisers, hangers on on the outskirts, and not dwellers in the city, it is quite possible that there may be found men amongst us who, from no other motive but purely from self-respect, would decline to sit on the Board, and there may be men, even in India, who, from self respect, will decline to associate themselves with the working of a committee like this. There was, on one occasion, I may tell my friend—he may know of it—that more than half the elected Commissioners of the Calcutta Corporation, out of self-respect, had to abstain from taking part in the municipality as it then was. Amongst them was my friend the late Rai N. N. Sen Bahadur who, alas, is no more. But, apart from that, I believe leaving to Government, what is claimed for it by the Hon'ble Mr. Bompas, its preponderating influence in this Trust, leaving all that, there will be no harm done if instead of *one* member being elected by the Ward Commissioners, *two* are elected by them. It will not affect the number; it will not affect the position of Government. You have given one vote to the nominated members; is it not unfair to the public of Calcutta? The elected members not only represent the [illegible] landlords of Calcutta, but they represent what my friend may

[*Babu Bhupendra Nath Basu.*]

those who pay the occupiers' taxes. The European wards of Calcutta send their representatives to the Corporation just as the Indian wards do, and what I say is this, that if you allow the nominated members only to elect one member, you take away with one hand what you give with the other, because you cannot get out of the position that the election by the nominated members is the nomination of Government, for these 25 members, as I said on a previous occasion, consist of 15 nominated members, 13 of whom, I understand, at the present moment are Government officials, and 10 other members—of whom eight represent the Bengal Chamber of Commerce and the trades, and two the Port Commissioners Consequently, that election is practically the nomination of Government. Is it necessary that this amount of preponderance should be reserved to Government, or would it not be more appropriate that the Government should have a working majority and not at the same time such an overwhelming majority as to make the presence of non-official members derogatory,—I will not say a mere farce but a matter of little use? Therefore, if out of the three men whom you have given to the Corporation, one is to be elected by the Corporation, where the Government men and others will vote equally, and two are given to the representative Commissioners and the elected Commissioners from the 25 wards, it does not affect the adjustment of power or the number, but at the same time it makes some concession to popular demands. Am I asking too much, or is the fact that I am asking too little? I hope, Sir, that my friend will see his way to accepting the suggestion that I have ventured to make."

A division was then taken, with the following result :—

Ayes 13.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apear.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

Noes 51.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuehler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. G. Grant-Gordon., C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The Hon'ble Babu Mahendra Nath Ray.

The following Members were absent :—

The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was ayes 13, noes 31, and the motion was therefore lost

The following motions were, by leave of the President, withdrawn :—

47. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "two" be substituted for the word "one", in clause 7 (*1*) (*a*) [*now* 7 (*1*) (*b*)].

48. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the word "two" be substituted for the word "one", in clause 7 (*1*) (*a*) [*now* 7 (*1*) (*b*)].

49. If Motion No. 20 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "two" be substituted for the word "one", in clause 7 (*1* (*a*) [*now* 7 (*1*) (*b*)].

50. If Motion No. 21 be carried, the Hon'ble Mr. Apcar to move that the word "two" be substituted for the word "one", in clause 7 (*1*) (*a*) [*now* 7 (*1*) (*b*)].

51. The Hon'ble Mr. Apcar moved that clause 7 (*1*) (*a1*) be omitted, and that the word "two" be substituted for the word "one", in clause 7 (*1*) (*a*) [*now* 7 (*1*) (*b*)].

He said :—

"Your Honour,—My amendment is in support of the representation that was made by the Corporation, so that I trust that Your Honour's Government and the members of this Council will at least pay some consideration to that representation. It is a matter, after all, of internal arrangement, if I may say so, and if the Corporation desire to be represented in the manner I indicate, I think that that ought to have weight. I am sorry myself, Sir, that the Hon'ble Member in charge referred to incidents in the Select Committee, because it may lead to disagreement, if not recrimination, if we refer in detail to occurrences in Committee, but I was out-voted, and my hon'ble friend on my left will remember that, when he found that he had acted on a misapprehension we tried to make things good, but the Hon'ble Member in charge would not allow the question to be re-opened, and I at once said that I would bring the question up in Council. That was how the matter stood. But I think it is a question of some importance, and I do ask that when the Corporation, who were not able to come to an understanding as to the number of the Board, nevertheless in the representation they made recommended that the popular element should have a preponderating number given to them. I trust that it may be agreed to. Sir, I, perhaps, would not have had any need to move this amendment at all, if the Hon'ble Member in charge had conceded four members to the Corporation; and now, I do not seek to deprive the official members and the representatives of special constituencies, such as the Trades Association, Chamber of Commerce and Port Trust, of their member; but I submit that they should not vote in the election of a second member at the risk of ousting the direct representatives of the ratepayers. The officials will be sufficiently represented on the Board, and surely Government members of the Corporation are not wanted to reinforce that element on the Board. The representatives of the Chamber of Commerce, Trades Association and Port Trust, may be ratepayers, but they represent certain special interests which

have direct representation on the Board. They naturally have community of interest and will have mutual sympathy with and the support of the official members. I do not cavil at that, but I lay the greatest stress on the necessity of as many members on the Board as possible, who will be the direct representatives of ratepayers. We have not a sufficient number of them. Personally I am not in the least interested, but I clearly see it will be these members who will be in touch with the people of this country and poorer classes among them, and will be able to give much-needed assistance to the Board. On these grounds I submit my amendment for acceptance."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir.—I had not understood Mr. Apcar's amendment until he explained it just now, and I am bound to confess that it is a better suggestion than the one I had made. He leaves the power of the nominated Commissioners just as it is, but, instead of giving them again a very large voice in the election of the popular representatives, he proposes that the two other representatives should be chosen by the elected Ward Commissioners. I think that it is a very reasonable suggestion; it interferes with no one's powers or prerogatives as proposed in this Bill, and will, to some extent, satisfy the popular demand of having more than one representative on the Board."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment, but, in doing so, I should be much obliged if the Hon'ble Mr. Apcar will inform me to what he referred when he said that his amendment was supported by the Corporation."

The Hon'ble MR. APCAR said:—

"I am supporting the representation of the Corporation. It will be found in the collection of opinions I have not got a copy, but if only I could see one, I will show it at once I was a member of the Committee of the Corporation, and I know that their representation was as I have stated it I am perfectly clear in my mind that there was a question about the number that should form the Board. We could not come to a conclusion on that point, and then the agreement arrived at was in the form I have stated I am sorry that I did not come prepared with a copy of the opinions. I did not suspect that any question could be raised on this point. But I believe that my recollection is quite correct."

The Hon'ble MR. BOMPAS said:—

"Perhaps, it would clear matters if I say that the Hon'ble Mr. Apcar must be referring to something that occurred before the Select Committee decided to raise the number of the members of the Trust. When the Corporation considered the matter, it was of opinion that, if the Board had seven members, it would not sufficiently represent popular interests. But there was no question then as to how three representatives of the Corporation could best be elected. In the Select Committee, it was decided to recommend that the Corporation should have three elected members instead of two. I may say with confidence that, since that occurred in last February or March, the question has not been before the Corporation."

The Hon'ble MR. APCAR said:—

"What the Hon'ble Member in charge has said is perfectly correct. The matter had been before the Corporation before it was referred to the Select Committee. But the principle that was there recommended was, as I have stated it, that the popular element should have larger representation. I submit that, if you give two members to the Ward Commissioners, you give a representation to the ratepayers. It is at all events quite clear from the report kindly handed to me by the Hon'ble Member in charge that what has been recommended was agreed to in our Committee, and it was accepted by the Corporation that the popular element should have a preponderating

voice (paragraph 2 of the Corporation Special Committee's Report, page 3, papers No. 8). I understood that, and it seems quite clear, by the popular element, the Ward Commissioners or those whom they represent, were referred to; that is what I have submitted here, and I am supported in this by the Opinions to which I have been referred. Whether the Corporation made their recommendation before or after the Select Committee of this Council met is immaterial. Therefore, I think I may say that, so far as the Corporation are concerned, the desire they have expressed is that there should be larger representation given to popular interests; here there is not that representation given to popular interests. I say that what was really adopted in the Committee of the Corporation is that it should be the popular element, that is to say, the representatives of the tax-payers, in other words, the Ward Commissioners. This is the view, I submit, Sir, and I think what I have said is a reasonable view, and I think in all circumstances, inasmuch as it does not affect the Government, what the Corporation have submitted as their view ought to be accepted, and for this reason, I would ask the Council to accept my amendment."

The Hon'ble MR. BOMPAS said:—

"I think, we understand now that, when the Hon'ble Mr. Apcar said that it was the opinion of the Corporation, he referred to the opinion expressed during the discussion of the Corporation in September 1910, and in opposing this amendment, I am not taking up the somewhat difficult position of opposing the considered opinion of the Corporation? The Corporation has made no recommendation in this matter at all, and I say now, as I said before, that the solution adopted by the Select Committee seems to be a perfectly reasonable one. We had, in the original Bill, one member to be elected by the Ward Commissioners, and one by the nominated Commissioners, and we have added a third to be elected by the Corporation sitting as a whole. We want a representative from the Corporation, and what reason there is for having a representative elected by the elected Commissioners, I fail to see; because it is not, as might be judged by the arguments of the Hon'ble Babu Bhupendra Nath Basu, that the nominated Commissioner was added in the Select Committee. What has been added on is one member elected by the Corporation."

A division was taken, with the following result:—

Ayes 12.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossain Cashim Ariff.

Noes 31.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.

[*Mr. Bompas.*

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Rai Sheo Shanker Sahay Bahadur.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. Dip Narayan Singh.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Kumar Sheo Nandan Prasad Singh
The Hon'ble Lt.-Col. G. Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. F. H. Stewart.
The Hon'ble Mr W. J. Bradshaw.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Maulvi Saiyid Muhammad Zahir-ud-din.
The Hon'ble Mr. T. R. Filgate.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Babu Bal Krishna Sahay.

The following Members were absent:—

The Hon'ble Mr. C. J. Stevenson Moore.
The Hon'ble Mr L F. Morshead.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.
The Hon'ble Mr K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was ayes 12, noes 31, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

52. If Motion No. 46 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that clause 7 (*1*) (*b*) [*now 7 (1) (c)*] be omitted.

53. If Motion No 47 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 7 (*1*) (*b*) [*now 7 (1) (c)*] be omitted.

54. If Motion No. 48 be carried, the Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 7(*1*) (*b*) [*now 7 (1) (c)*] be omitted.

Clause 7 (2a) [now 7 (3)].

55. If Motion No. 25 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that, after clause 7 (*2a*) [*now 7 (3)*], the following be inserted, namely:—

(*2b*) The member of the British Indian Association referred to in clause (*d1*) of section 4 shall be elected under rules to be made by the Local Government.

56. If Motion No. 28 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that, after clause 7 (*2a*) [*now 7 (3)*], the following be inserted, namely:—

(*2b*) The two members referred to in clause (*d2*) of section 4, to be elected as representing the landholding classes of Calcutta, shall be elected under rules to be made by the Local Government under section 136.

57. If Motion No. 26 be carried, and if neither Motion No. 12 nor Motion No. 56 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that, after clause 7 (*2a*) [*now 7 (3)*], the following be inserted, namely:—

(*2b*) Two of the persons referred to in clause (*e*) of section 4 shall be elected by the landholding classes of Calcutta under rules to be made by the Local Government under section 136.

[*Rai Shéo Shankar Sahay Bahadur; Mr. Wheeler.*]

58. If Motion No. 29 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that, after clause 7 (*2a*) [*now 7 (3)*], the following be inserted, namely:—

(*2b*) The Local Government shall make rules to regulate the election of the member from the landholder class of Calcutta referred to in clause (*d2*) of section 4

59. If Motion No. 30 be carried, the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that, after clause 7 (*2a*) [*now 7 (3)*], the following be inserted, namely:—

(*2b*) The representative of the Muhammadan community referred to in clause (*d2*) of section 4 shall be elected by a recognized association of Muhammadans specially authorized by the Local Government in that behalf.

Clause 7 (3) [now 7 (4)].

60. If Motion No. 59 be carried, the Hon'ble Maulvi Saiyid Muhammad Fakhr ud-din to move that the words "the Secretary to the Muhammadan association referred to in sub-section (*2b*)," be inserted after the words "Bengal National Chamber of Commerce", in line 3 of clause 7 (*3*) [*now 7 (4)*].

Clause 9 (1).

61. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that, after the word "elected", in line 2 of clause 9 (*1*), the words "and for being" be inserted.

62. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "to be" be substituted for the words "for being appointed or elected", in lines 1 and 2 of clause 9 (*1*).

He said:—

"With your permission, Sir, I would ask that Motions Nos. 61 and 62 be considered together.

"If my amendment, which is purely formal, be accepted, clause 9 will run thus:—

'A person shall be disqualified for being appointed or elected and for being a trustee if, etc.,' as in the Calcutta Municipal Act, 1899 (Ben. Act III of 1899, section 39, or if the alternative amendment (Motion No. 62) is accepted, which, to my mind, is still better and concise, the clause will run thus:—

'A person shall be disqualified to be a trustee', as in section 14, clause (*1*) of the Bombay Improvement Act.

"The reason why I suggest this alteration is that the disqualifications referred to in this clause not only affect the appointment or election of a Trustee, but also affect his acting or continuing to act as a Trustee after he is so appointed or elected, as is recognised in clause 15B (*now 15*), sub-clause 2 (*1*) of the Bill. The wording I propose is, I venture to submit, more concise and to the point and brings our Act into a line with the wording of the Calcutta Municipal Act and of the Bombay Act."

The Hon'ble MR. WHEELER said:—

"These amendments are purely of a verbal nature, and they do not add anything to the Bill. The first is taken from the Calcutta Municipal Act, and the second from the Bombay Act, while, as a matter of fact, the Bill meets all the requirements of the case. A trustee is made, not born, and he can only be made by appointment or election. If these processes are both barred, he is sufficiently incapable of becoming a Trustee."

The amendments were then, by leave of the President, withdrawn.

[*Babu Deba Prasad Sarbadhikari; Mr. Wheeler; Rai Sheo Shankar Sahay Bahadur.*]

63. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "or bankrupt" be inserted after the word "insolvent", in clause 9 (*1*) (*b*).

He said:—

"Sir,—This amendment is not one strictly of drafting. I desire to have the words 'or bankrupt' inserted after the word 'insolvent' in clause 9 (*1*) (*b*), for the simple reason that there may be a doubt as to whether the word 'insolvent', as understood under the Indian Act, really covers a bankrupt in England. Till of late there has been a distinction, under the English law, between traders and non-traders. That difference has been removed, and traders and non-traders may be indiscriminately bankrupts. It is conceivable that some one may be declared a bankrupt in England, under a variety of circumstances, most of which may be applied to this country, but not all. It would be a state of things under which, although he would not be an insolvent in the sense we understand here, he might be a bankrupt. For this reason, I desire to insert the word 'bankrupt' after the word 'insolvent', so that both the classes may be covered."

The Hon'ble Mr. Wheeler said:—

"The point is not of great importance, and the Hon'ble Member apparently relies on section 14 (*1*) (*a*) of the Bombay Act, which contains the expression 'bankrupt or insolvent.' It is a technical matter, but we are informed by the legal advisors of Government that the amendment will really add nothing to the Bill, and that the word 'bankrupt' is not a term which is ordinarily used in Indian legislation. If the Hon'ble Member will refer to the Presidency Towns Insolvency Act, he will see that the word used there is 'insolvent' throughout. I think the amendment adds nothing."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"In that view of things I do not wish to press it, but I wanted to bring it to the notice of the Council."

The motion was then, by leave of the President, withdrawn.

64. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "other", at the end of line 1 of clause 9 (*1*) (*e*), be omitted.

He said:—

"Sir,—This motion also is not so much a matter of drafting as of intention. It is possible for a director or secretary or manager not to be salaried; although generally, in most companies, directors, secretaries, managers are salaried, in some cases they are not. Therefore, the omission of the word 'other' would make the section run thus: 'is a director or a secretary, manager or salaried officer of any incorporated company', so that the salaried officers may be classed by themselves and the directors may not be left out either."

The Hon'ble Mr. Wheeler said:—

"Here again the point is merely verbal, and the amendment perhaps proceeds on a misreading of the clause, which refers to (1) directors and (2) secretaries, managers or *other* salaried officers. If the Hon'ble Member omits the word 'other', then it might be said that the clause infers that 'secretaries' or 'managers' are not salaried officers. I think it is purely a matter of drafting.'

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"In that view of things, I do not wish to press it."

The motion was then, by leave of the President, withdrawn.

65. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "has any share or interest in any contract or employment with, by or" be substituted for the words "contracts with, or is employed by, the President", in clause 9 (*1*) (*e*).

The motion was put and agreed to.

[*Babu Bhupendra Nath Basu; Mr. Wheeler; Rai Sheo Shankar Sahay Bahadur; Babu Deba Prasad Sarbadhikari.*]

Clause 9 (2).

66. The Hon'ble Babu Bhupendra Nath Basu moved that the letter "a" before the word "contract," in line 2 of clause 9 (*2*), be omitted.

The Hon'ble MR. WHEELER said:—

"That also we accept."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

67. The Hon'ble Babu Bhupendra Nath Basu to move that the words "any transaction with the Board in relation to" be inserted after the words "interest in," in line 4 of clause 9 (*2*).

68. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "other," in line 3 of the concluding paragraph of clause 9, be omitted.

69. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "has any share or interest in any contract or employment with, by, or," be substituted for the words "contracts with, or is employed by, the President," in lines 3 and 4 of the concluding paragraph in clause 9.

The Hon'ble MR. WHEELER said:—

"This is analogous to No. 65 and may also be accepted."

The motion was put and agreed to.

70. The Hon'ble Babu Deba Prasad Sarbadhikari moved that at the end of clause 9 the following be inserted, namely:—

or by reason only of his rendering occasional professional service to the Board.

He said—

"Sir, with regard to this, I beg to refer the Council to clause 9 (*d*) under which a person shall be disqualified from being appointed or elected a Trustee if he has, directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by, or on behalf of, the Board. With regard to highly technical matters, it is difficult to get expert advisers in this country, and if all should, by reason of having to render occasional service to the Board in their professional capacity, be incapacitated for all time, the Government and the Board may find it difficult with regard to highly technical experts. In that view of things I think that if a little relaxation like this should be provided, that no one who occasionally renders professional advice to the Board should be incapacitated or disqualified."

The Hon'ble MR. WHEELER said:—

"As the Hon'ble Member explains, the object of the amendment is to protect the occasional practitioners, I presume the legal practitioners, practising before the Board, but I think it is unnecessary. It could only be held that such are debarred under clause 9 (*d*) as having a share or interest in a contract or employment with, by or on behalf of, the Board. But the word used is 'has', and that implies that the employment must be existing at the time. It would not apply to occasional work done in the past. Also it is arguable that the employment must be of a fairly continuous character. As the clause stands, a Trustee could not appear on behalf of the Board, nor could any body of the nature of Standing Counsel to the Board be appointed as a Trustee, and I do not think any reasonable objection could be taken to that. The wording of the clause is exactly the same as that of section 39 (*f*) of the Calcutta Act."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I confess, Sir, that a lawyer was the farthest away from my mind, because my lawyer friends well know and will testify that as there are many in the field the Board will have no difficulty in regard to them. But the

gentlemen also. It was really a matter of sanitary and engineering experts. In bringing this to the notice of the Council, I was trying to help the Board, because it must not be considered—as is unfortunately sometimes considered—that our object is only to be obstructive in whatever we bring up. We have pointed out whatever has struck us as incorrect. If the Hon'ble Member does not think it necessary, I do not press it."

The motion was then put and lost.

Clause 10.

71. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after the word "office," in line 2 of clause 10, the following be inserted, namely:—

or do any other work for remuneration.

He said—

"Sir, we want a whole-time President and an absolutely *bond fide* President, and that is a reason, why I want to bring in the words '*or do any other work for remuneration.*' Without positively holding another salaried office, it ought not to be impossible for highly qualified gentlemen like the Hon'ble Mr. Bompas (who is likely to fill the office of the President of the Board) to earn money by a variety of ways that are known to cultured earners of money, not exactly by becoming University examiners, which is one way of making a little money—but even which has been objected to by Government in certain cases, if indulged in without the leave of the Government. To leave no possibility of a highly paid officer devoting his time for purposes other than those of the Board, I think that these qualifying or restrictive words ought to be brought in.

The Hon'ble Mr. Bompas said—

"Sir, I must oppose this amendment. The section as it stands in the Bill provides that the President should not hold any other salaried office and shall devote his whole time and attention to his duties under this Act. That is what the Hon'ble Mover really wants. He asks for a guarantee that the President should devote his whole time to the Board. I think the clause sufficiently provides for that. But the amendment goes too far. In the Calcutta Municipal Act the corresponding provision expressly provides that the Chairman may be a Port Commissioner; so in the same way it is conceivable that the President of the Trust may be a Port Commissioner drawing fees, or a member of the General Committee of the Corporation. If the Chairman were a man of literary tastes, it is quite possible that he might publish a book, or occasionally write for the press without detriment to his duties. There is no reason to forbid this, and the amendment goes too far."

The Hon'ble Babu Deba Prasad Sarbadhikari said—

"Sir, none would welcome more than myself, literary and, therefore, I take it, a cultured President of the Board. Sir, the exception for which this clause provides would amply safeguard requirements like these. If the Government sees fit to permit and if the President happens to have leisure enough for becoming a member of the General Committee of the Corporation, and if the Government thinks fit to allow him to do so, the Government will be the best judge of the situation."

The Hon'ble Mr. Bompas said—

"If the Hon'ble Member's amendment is accepted, it would have no such power."

The Hon'ble Babu Deba Prasad Sarbadhikari said—

"I do not see that at all, and would therefore press my amendment for what it is worth. Of course, even too much literature may not be good for the President of the Board, and his literary bend may take him away from his work in the same way as the Chairman's attention may be diverted if he was too much of a Trustee of the Board or anything of that kind. I think that with regard to everything that carries either a salary or remuneration, the President ought to be under the orders of the Government, and the acceptance

[*Rai Sheo Shankar Sahay Bahadur ; Mr Slacke ; Mr. Apcar.*]

of my amendment would not necessarily hamper the discretion of Government in allowing exceptions in such cases in which it ought to be allowed. I, therefore, ask that my amendment may be put to the vote.

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn :—

Clause 11.

72. The Hon'ble Babu Bhupendra Nath Basu to move that after the words "may be entitled," in line 2 of sub-clause (*2*), the words, "under sub-section (*3*)," be inserted.

Clause 14 (1) [now 12(1).]

73. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "on the recommendation or at the request of the Board," be substituted for the words, "after consultation with the Board," in clause 14 (*1*) [*now 12(1)*].

He said—

"Sir, I beg to move that the words, 'on the recommendation or at the request of the Board,' be substituted for the words, 'after consultation with the Board,' in clause 14 (*1*), [*now 12(1)*] which has reference to the leave to be granted to the President of the Board. The words, 'after consultation with the Board,' have been added by the Select Committee—I presume to meet the case that the Board should have effective voice in the matter of granting leave to the President. The expression used, however, is objectionable and does not go far enough. If it is intended that the Board will be consulted, but it will be optional with Government to accept the Board's advice or not, it should be distinctly stated. Further, if that is the intention, it is no concession at all and the words added by the Select Committee will be of no practical use.

"In the case of the Chairman of the Calcutta Corporation, it is the Corporation which grants leave with the sanction of the Government (see section 35 of the Calcutta Municipal Act). It is not clear why a different procedure is contemplated in the case of the Board. My submission is that if the power of granting leave to the President be not given to the Board as in the case of the Chairman of the Corporation, it should be given only on the recommendation or at the request of the Board."

The Hon'ble MR. SLACKE said—

"I am afraid, Sir, I cannot advise the Council to accept this amendment. In the case of the Chairman of the Calcutta Corporation, leave can be granted him by Government subject to the rules which the Corporation may frame on the subject. Here the case is very different. The bulk of the finances of the Trust will be found by Government, and therefore it is not necessary that Government should require the permission of the Board before granting the President leave. For these reasons I oppose the amendment and ask the Council to reject it."

The motion was then put and lost.

74. The Hon'ble Mr. Apcar moved that the words "or depute him to other duties," in clause 14 (*1*) [*now 12(1)*] be omitted.

He said :—

"The provision, to which we take exception, is evidently intended for application to the members of the Civil Service. It is easy to see that the office of President will be a prize appointment among the rising juniors of that service, and I do not think that we shall be asking too much from one selected for that appointment to be prepared to serve, and feel bound to serve, for a period of not less than three years, which I think only too short for such a position—without breaking into his work to go elsewhere on what is termed deputation. His will be work that will require many more years of experience for efficient administration than three years, at the

[*The President; Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Stewart; Mr. Slacke; Mr. Bompas.*]

end of which he will have only about begun to prove his usefulness. If the President has earned his leave by service in that office, or if he breaks down in health, no one would grudge him his holiday, to recuperate and return to his duties with renewed vigour. But if he is going away, possibly to a work that will be more anxious and more tiring to his energies—and this may possibly happen—he will return to his own duties more jaded than before, and perhaps only to lead to an application for leave.

"The work of the President will be of a special character which will require special study and aptitude. Leave that has become due and ill-health will give occasion for a sufficiency of interruptions in the continuity of service which is so essential for efficient work, and I trust that the Government will be induced to yield to the representations that are being made on this issue."

THE PRESIDENT said:—

"As four of the motions are identical, I think it would be better that the Hon'ble Members should speak now."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I do not wish to cover the same ground that has already been covered by my hon'ble friend to the left. All that I desire to remind the Council about is the case of the Calcutta Corporation, where frequent changes in the office of the Chairman have been looked upon and pronounced to be seriously interfering with the work of the Corporation to the extent that was mentioned in connection with the Municipal Bill in 1899. For the reasons which the Hon'ble Mr. Apcar has suggested, I beg to associate myself with him in opposing this deputation of the President."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I beg to support my friends, and I wish to say that we, people of Calcutta, have felt—and in that I include my friends, the members for the Bengal Chamber of Commerce and the Trades Association—that too frequent interruptions have not been conducive to efficient work, and we want to safeguard our future President of the Board against the temptations of Government utilising his services for other work. We desire that he should, so long as he continues to be the President, devote his whole energy and attention to the work of the Board, and that Government may not feel tempted to take him away. If Government wishes to take him away, let it take him away for good. He comes there for a certain time and let him stay for a certain time. I do not think that Government will unnecessarily take him away, but we must protect ourselves against that contingency."

The Hon'ble MR. STEWART said:—

"Your Honour, I beg to submit that, from my practical point of view, there is much to be said for the amendment which is now under discussion, especially in looking to the short tenure which is proposed to the President of the Trust. I hope therefore that the amendment will commend itself to the Hon'ble Member in charge of the Bill."

The Hon'ble MR. SLACKE said:—

"I regret that I cannot accept this amendment, since it seems to me that Government, as has already been admitted by the Hon'ble Babu Bhupendra Nath Basu, will never unnecessarily exercise the power which is proposed to be given under this clause. Moreover, the clause provides that the power in question should not be exercised without consultation with the Board. It seems to me unreasonable to imagine that if the Board strongly oppose, the Government will reject their opinion. In these circumstances, I do not think there is any sufficient cause for apprehension, and would recommend that this amendment be rejected."

The Hon'ble MR. BOMPAS said:—

"May I add a few words to what has been said by the Hon'ble the Vice-President. I thoroughly sympathise with the desire expressed by the movers

of this amendment that there should be as much continuity in the service of the President as possible. The words 'depute him to other duties' were inserted by the Select Committee with the object of attaining greater continuity than was possible otherwise. If the Local Government has only power to grant the President of the Board leave, it cannot depute him to other duties. It is, however, conceivable that some temporary vacancy may occur and the President may be allowed to fill that vacancy for three months, and then come back and do the work as President of the Trust, whereas, if he cannot be deputed to any other post, he must resign, and his successor must be appointed for a full period of three years. The President of the Trust who has done three years' work and is willing to do another year's work will be prevented from doing so. It may be desirable also to depute the President of the Trust to attend a Town Planning Conference or some special work of that kind, which will harmonise with his work as President of the Trust. If this amendment is accepted, it will not be possible to do so. It was with these facts in view that we inserted the words, which are now objected too, while the Bill was in the Select Committee.

The Hon'ble MR. APCAR said:—

"Sir, one is put in rather an invidious position by reason of the grounds given for maintaining the present position, because it is open to the question for whose benefit this provision is inserted? Does it not occur to the Member in charge that if the President may go on deputation, that he does not intend to make his work on the Board his career, even during his short period of service in that office? And that if this power is to be reserved to him merely to enable him to create a lien on an appointment, the law is made to serve the interest of his service and not the public? It seems evident that if he is allowed to look out for other appointments, his mind will be filled with thoughts how to secure his own advancement, and that clause 10 which requires him to devote his whole time and attention to the duties as President will be disregarded. I think, Sir, the weakness of the present proposal on the Bill has been disclosed. I do not, however, wish to take up your Honour's time, but it does seem to me that this temptation ought to be eliminated altogether from this Bill, so as to induce the President of the Board to understand that he is not to look to any other appointment at all during the period he is serving there. I do not think that it is consistent with proper regard for the public interests that he should be allowed to go on deputation to other duties."

A division was then taken, with the following result:—

Ayes 21.	*Noes 21.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.	The Hon'ble Babu Bal Krishna Sahay.
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., Vice-President.
The Hon'ble Lt.-Col. Grant Gordon.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Mr Norman McLeod.	The Hon'ble Mr. T. Butler.
The Hon'ble Mr. F. H. Stewart.	The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. W. J. Bradshaw.	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. Saiyid Wasi Ahmad.	The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.	The Hon'ble Mr. S. L. Maddox.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr. T. R. Filgate.	The Hon'ble Mr. G. W. Kuchler.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. C. H. Bompas.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Babu Mahendra Nath Roy.	The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Babu Braj Kishor Prasad.	The Hon'ble Nawab Saiyid Muhammad, K.B.
The Hon'ble Mr. Din Narayan Singh.	The Hon'ble Mr. C. F. Payne.
	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.

The following members were absent :—

The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr L. F. Morshead.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Abdullah-al-Mamun Suhrawardy.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Dass, C.I.E.
The Hon'ble Khan Bhahadur Maulvi Surfaraz Hussain Khan.

There being an equality of votes, the President gave his vote against the motion.

So the motion was lost.

The following motions were, by leave of the President, withdrawn :—

75. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or depute him to other duties," in clause 14 (*1*) [*now 12(1)*] be omitted

76. The Hon'ble Babu Bhupendra Nath Basu to move that the words "or depute him to other duties," in clause 14 (*1*) [*now 12(1)*] be omitted.

77. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "or depute him to other duties," in clause 14 (*1*) [*now 12(1)*] be omitted.

Clause 14 (2) [now 12(2)].

78. If Motion No. 75 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "(if any)," in clause 14(*2*) [*now 12(2)*] be omitted.

79. If Motion No. 75 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or deputation," in clause 14(*2*) [*now 12(2)*] be omitted.

80. If Motion No. 74 be carried, the Hon'ble Mr. Apcar to move that the words "or deputation," in clause 14(*2*) [*now 12(2)*] be omitted.

81. If Motion No. 76 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "or deputation," in clause 14(*2*) [*now 12(2)*] be omitted.

82. If Motion No. 77 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "or deputation," in clause 14(*2*) [*now 12(2)*] be omitted.

83. The Hon'ble Babu Bhupendra Nath Basu to move that the proviso to clause 14(*2*) [*now 12(2)*] be omitted.

Clause 15 (1) [now 13 (1)].

84. If Motion No. 74 be carried, the Hon'ble Mr. Apcar to move that the words "or deputed to other duties," in clause 15 (*1*) [*now 13(1)*] be omitted.

85. If Motion No. 75 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or deputed to other duties," in clause 15 (*1*) [*now 13(1)*] be omitted.

86. If Motion No. 76 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "or deputed to other duties," in clause 15(*1*) [*now 13(1)*] be omitted.

87. If Motion No. 77 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "or deputed to other duties," in clause 15(*1*) [*now 13(1)*] be omitted.

Clause 15(3) [now 13(3)].

88. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "so far as may be," in line 3 of clause 15(*3*) [*now 13(3)*] be omitted.

Mr. Bompas; Babu Deba Prasad Sarbadhikari.]

He said :—

"The words here used, 'so far as may be' are objectionable and ought to be omitted.

"It is curious that these words 'so far as may be' in the Bill, do not govern the powers which may be exercised by an acting President; but only govern his liabilities, restrictions and conditions.

"I confess I cannot understand the significance of these words. They are vague and may mean anything. Moreover, I beg to point out that these words are innovations in the Bill. They do not find a place either in the Calcutta Municipal Act, section 35, clause (6), or Bombay Improvement Act, section 22 (3), where the liabilities, restrictions and conditions of the acting Chairman of the Calcutta Corporation and of the Bombay Improvement Trust, respectively, are referred to and from which the language of the present clause in the Bill is borrowed almost word for word. It is not clear as to why these new words are introduced in the present Bill. They are out of place and ought to be omitted. They will mean that the Legislature intended to reduce the liabilities of the acting President"

The Hon'ble MR. BOMPAS said :—

"Perhaps I may say that I am prepared to accept the amendment."

The motion was put and agreed to.

The following motion was, by leave of the President, withdrawn :—

89. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "so far as may be," in line 3 of clause 15(*3*) [*now 13 (3)*] be transferred to the end of that clause.

Clause 15A (now 14).

90. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "three" be substituted for the word "six" in line 4 of clause 15A (*now 14*).

He said :—

"We have all been told that continuity is a great point of these Boards. The President is now to be deputed; he is to have all the leave that he is entitled to and wants, and the Trustees also are to be allowed no doubt under proper circumstances leave from the meetings of the Boards; but six months seems to be too long a period, and therefore I beg to move that the word 'three' be substituted. This ought to be sufficient for ordinary purposes."

The Hon'ble MR. BOMPAS said :—

"I must oppose this amendment, partly because if it is accepted, it will involve a great many subsequent consequential amendments which have not been provided for, and partly because six months' leave in the circumstances that exist in Calcutta seems to be a very natural period. A great many people, both European and Indian gentlemen, go on six months' leave to England. It was decided in the Select Committee that six months' leave should be granted to Trustees, and, if any one of them overstays his leave, he will forfeit his appointment. That seems to me a very reasonable solution of the difficulty, and I trust that the members of the Council will not go against the decision arrived at by the Select Committee."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Sir, so far as regards the argument as to consequential amendments, I have given notice of a series of amendments for the purpose of meeting that. The Trustees hold office for no more than three years, I believe. Under a subsequent clause 16 (*1*), if any trustee be permitted by the Board to absent himself for any period exceeding three months, then the vacancy shall be filled within one month by a fresh appointment or election. Well, Sir, we had this provision later on, and it seems to me a matter of doubtful expediency to allow longer leave which is proposed to be done by clause 15A (*now 14*). I do believe, Sir, that the continuity is bound to be disturbed by these absences, and this is my reason for proposing this amendment."

The motion was then put and lost.

[*Rai Sheo Shankar Sahay Bahadur; Mr. Bompas.*]

91. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the word "consecutive" be inserted before the word "months," in line 4 of clause 15A (*now 14*).

He said:—

"This is a verbal amendment. I suppose the intention is that leave may be granted for any period not exceeding six months at a time and that it will not be against this clause if leave is granted in an aggregate for more than six months not at one time. If it is not made clear, the clause may mean that the aggregate period of leave to the trustee during period of his tenure of office cannot exceed six months. The words 'consecutive months' have been used in clause 15B (*now 15*), clauses (*b*) and (*c*), and my suggestion is that in this clause also we should use the words 'consecutive months' to make it clear."

The Hon'ble Mr. Bompas said:—

"I am advised that this amendment is unnecessary, and certainly it seems to me to be so. The months in a period of six months must be consecutive. I oppose this amendment."

The Hon'ble Rai Sheo Shankar Sahay Bahadur said:—

"If 'six months' means 'six consecutive months' I fail to see why in the very next clause 15B (*now 15*), clause (*b*), the Hon'ble Member has used the expression 'six consecutive months,' and in clause 15B (*now 15*), sub-clause (*c*), he has used the expression 'three consecutive months.' I submit the insertion of the word 'consecutive' in one place and its omission from another place in the Bill will certainly lead to an interpretation that 'six months' *does not necessarily* mean 'six consecutive months'."

The motion was then put and lost.

Clause 15B (1) [now 15 (1).]

92. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "remove any" be substituted for the words "declare that any Trustee shall cease to be a," in line 2 of clause 15B (*1*) [*now 15 (1).*]

He said:—

"This is a verbal amendment. The words I propose to use seem to be more clear and appropriate and have been used in the Bengal Municipal Act, section 19 and section 20, Bengal Local Self-Government Act, section 18. In fact, in the marginal note we have the word 'Removal' used. There is no reason why we should not adopt this simple word in the body of the Act also."

The Hon'ble Mr. Bompas said:—

"We are advised that this amendment, which the Hon'ble Member himself admits to be purely verbal, is unnecessary and also not desirable from a drafting point of view."

The motion was then, by leave of the President, withdrawn.

93. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that clause 15B (1) (*a*) [*now 15 (1) a*)] be omitted.

He said:—

"I may be permitted to take up motions Nos. 93 and 94 together.

"Clause 21A (*now 23*) provides that a Trustee shall not take part in proceedings in which he is personally interested or has acted professionally on behalf of any person having such interest. *Clause* 15 (*now 15*) lays down as a penalty that if he does so take part in proceedings in which he is personally interested

he may be removed. It appears to me that the penalty is very hard, specially in those cases in which he might have acted owing to inadvertence, or in the *bonâ fide* belief that he was not so personally interested as to have debarred him from taking part in the proceedings. In many cases it will be found that he had satisfactory and reasonable explanation for his action. My submission is that the penalty as provided for in this clause is too drastic and should be altogether removed.

"In any case, if it is retained, it should be provided that he may be removed only if he has acted in contravention of clause 21A (*now 23*) *without reasonable explanation.*"

The Hon'ble MR. BOMPAS said:—

"Sir, I must oppose this amendment. Clause 15B (*now 15*) of the Bill deals with the removal of the Trustees. Sub-clause (*2*) gives the reasons which make it compulsory for the Local Government to remove a Trustee, and in sub-clause (*1*) are given the causes which make it optional with the Government to remove a Trustee. One of those causes to which the Hon'ble Member objects is that the Trustee has acted in contravention of clause 21A (*now 23*), that is to say, if he has taken any part in any proceedings in which he is personally interested without disclosing the fact. Now, the Improvement Trust is going to exercise very great powers. It will have great powers in interfering with private property. Therefore, it is desirable that the conduct of the Trust should be above suspicion. In England, in the corresponding section of the law, the punishment is more drastic. In England, if a trustee is personally interested and does not disclose the fact, he is fined £50 before the Magistrate. Clearly the Government would not exercise the power of dismissal without giving the trustee the opportunity to explain his conduct. That the Government would not do so seems to me entirely imaginary, considering the position of the men who are to be appointed or elected as trustees. In the interest of the public and in the interest of the confidence which the public will have in the Trust, I recommend that the amendment should be opposed."

The motion was then put and lost.

The following motions were, by the leave of the President, withdrawn:—

94. If motion No. 93 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "without satisfactory explanation" be inserted after the word "has" in clause 15B (*1*) (*a*) [*now 15 (1) (a)*.]

95. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "three" be substituted for the word "six" in line 2 of clause 15B (*1*) (*b*) [*now 15 (1) (b)*.]

96. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 15B (*1*) (*c*) [*now 15 (1) (c)*] be omitted.

97. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "whose" be substituted for the words "and if his," in lines 1 and 2 of clause 15B (*1*) (*d*) [*now 15(1) (d)*.]

98. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that after clause 15B (*1*) (*d*) (*now 15 (1) (d)*), the following be inserted, namely:—

> and thereupon the office of such Trustee shall become vacant.

Clause 15B (2) [*now 15 (2)*.]

99. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "remove any" be substituted for the words "declare that a Trustee shall cease to be a," in line 2 of clause 15B (*2*) [*now 15 (2)*.]

[*Rai Sheo Shankar Sahay Bahadur; Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu.*]

100. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "for appointment or election as a Trustee" in clause 15B (*2*) (*i*) [*now 15* (*2*) (*i*)] be omitted.

101. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 15B (*2*) (*ii*) [*now 15* (*2*) (*ii*)] be omitted.

102. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that clause 15B (*2*) (*ii*) [*now 15* (*2*) (*ii*)] be omitted.

He said:—

"This clause lays down that a trustee elected by a particular body shall cease to be a trustee if and when he is not a member of that body. This is not the provision in the Calcutta Municipal Act or even in the Rules for election of members to the Legislative Council.

If this clause stands as drafted, constant changes may have to be made in the body of the trustees. I know that this is borrowed from the Bombay Act, but my submission is that it is desirable that it should be omitted."

The Hon'ble Mr. Wheeler said:—

"I submit that the clause should be retained. It is really one which has been inserted in the interests of the bodies who will elect certain representatives on the Trust, and all that is said is that, if any person has been elected to the Trust as representing a particular body, and ceases to be a member of that body, he thereby loses the qualification under which he sits on the Trust, and to retain him on the Trust after he ceases to be a member of the body which elected him is practically to disenfranchise them. This seems scarcely fair, and I think the clause should be retained."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn.

103. If motion No. 30 be carried, the Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "or the representative of the Muhammadan community" be inserted after the words "The Bengal National Chamber of Commerce," in clause 15B (*2*) (*ii*) [*now 15* (*2*) (*ii*)].

Clause 15B (*3*) [*now 15* (*3*)].

104. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "is" be substituted for the words "has shown himself to be," in line 2 of clause 15B (*3*) [*now 15* (*3*)].

He said:—

"This is a matter of drafting, and if the Hon'ble Member in charge does not accept it, I will not press it."

The motion was not accepted, and was, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

105. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "remove him" be substituted for the words "declare that the President shall cease to hold office as such," at the end of clause 15B (*3*) [*now 15* (*3*)].

106. The Hon'ble Babu Bhupendra Nath Basu moved that the words "remove him from his office" be substituted for the words "by notification declare that the President shall cease to hold office as such," at the end of clause 15B (*3*) [*now 15* (*3*)].

[*Mr. Wheeler; Babu Bhupendra Nath Basu; Mr. Bompas.*]

He said :—

"In this amendment, I seek to eliminate the laying down in the particular manner in which the removal of the President should take place. It is a matter for the Hon'ble Member in charge to consider. But I do not intend to press it."

The Hon'ble MR. WHEELER said :—

"It is to be hoped that the necessity of applying this clause will never arise. If unfortunately it does, the facts must be publicly known, and there is no objection to adhering to the procedure of a notification declaring the President to have ceased to hold office. The proposed amendment does not materially improve matters."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"In that view of things I withdraw this amendment."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn :—

Clause 16.

107. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the word "consecutive" be inserted before the word "months," in line 3 of clause 16

108. If motions Nos. 92 and 99 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "is removed" be substituted for the words "ceases to hold the office of Trustee," in lines 5 and 6 of clause 16.

Clause 16A (now clause 17).

109. The Hon'ble Babu Bhupendra Nath Basu moved that the words "not being less than thirty days from the commencement of this Act," in lines 3 and 4 of clause 16A (*1*) [*now 17 (1)*], be omitted.

He said :—

"Is it not necessary to provide for this amendment ?"

The Hon'ble MR. BOMPAS said :—

"I accept this amendment, Sir."

The motion was put and agreed to.

110. The Hon'ble Babu Bhupendra Nath Basu moved that after clause 16A (*2*) (*c*) [*now 17 (2) (c)*] the following be inserted, namely :—

> Provided that a Trustee appointed or elected in the place of an out-going Trustee shall not hold office longer than the period at the expiration of which such out-going Trustee would have had to vacate office.

He said :—

"Does the department concerned consider this necessary ? I only provided this to make it clear as to the term of the office of a trustee or his successor. If it is not considered necessary, I do not press for it."

The Hon'ble MR. BOMPAS said :—

"The clause was introduced in the amended Bill to secure greater continuity of service. We do not want that the whole body of trustees should charge office at once. I oppose it on principle."

The motion was then, by leave of the President, withdrawn.

The Council was then adjourned to Wednesday, the 16th August, 1911, at 11 A.M.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

CALCUTTA,
The 29th August, 1911.

B. S. Press—1-12-1911—245IJ—600—E. J. H.

Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Wednesday, the 16th August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President.*

The Hon'ble MR. RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHELLER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR, S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KÜCHLER

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS

The Hon'ble MR. F L. HALLIDAY, M.V.O., C.I.E

The Hon'ble MR. C E A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR

The Hon'ble MR. C F. PAYNE.

The Hon'ble MR. H. J. HILARY.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble LT.-COL. G. GRANT-GORDON, C.I.E

[*Babu Braja Kishor Prasad.*]

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble MR. MADHU SUDAN DAS, C.I.E.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble BABU BRAJ KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

QUESTIONS AND ANSWERS.

FORFEITURE OF BUNDS, ETC.

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

(*a*) Will the Government be pleased to state whether it has considered the two memorials submitted to it, one after the other, by the people of Champaran, each of which was signed both by certain of the European planting community and certain of the Indian zamindars of the district, praying the Government to rescind its notification published in one of the issues of the Calcutta Gazette of May, 1910, forfeiting to Government all the *bunds, pynes*, etc., to the north of the Tribeni Canal ?

The Calcutta Improvement Bill, 1911.

[*Mr. Butler; the President; Rai Sheo Shankar Sahay Bahadur; Mr. Wheeler.*]

(*b*) Will the Government be pleased to state what orders it has passed on the said memorials?

The Hon'ble MR. BUTLER replied :—

"The matters referred to by the memorialists are under the consideration of Government."

THE CALCUTTA IMPROVEMENT BILL, 1911.

Clause 14 (2a) [now 9 (1)] in the Schedule to the Bill.

The PRESIDENT said :—

"I had hoped that what I said yesterday as to the views of the Government of India, on the question of additional compensation for compulsory acquisition, was sufficiently clear, and I believe it was understood by the Members of the Council. I observe, however, that in the newspapers it is not correctly reported. To remove any possible misapprehension, I will state again that what the Government of India have held is that the provisions of clause 14 (2a) [*now 9 (1)*] of the Schedule, referred to in clause 61 C (*b*) [*now 71 (b)*] of the main Bill, are to be taken as embodying fundamental matters of principle, any modifications of which will involve the reconsideration of the amount of assistance which the Government of India are prepared to give to the Trust."

Clause 17 (now 18).

111. The Hon'ble Rai Sheo Shaukar Sahay Bahadur moved that the word "other", in line 3 of clause 17 (*b*) [*now 18 (b)*], be omitted.

He said :—

"I beg to move that the word 'other', in line 3 of clause 17 (*b*) [*now 18 (b)*], be omitted. I do not know what the word 'other' here means. The word 'other' has been added by the Select Committee, with what object I have failed to discover. The President can call a meeting whenever he thinks fit. The privilege of making requisition to call a special meeting is given to not less then two Trustees. What is the significance of the word 'other' here? If it means that the President must not be one of them, the safeguard seems to be unnecessary as the President can always act singly. The Bombay Act, section 18, clause (*b*), the Calcutta Municipal Act, section 77, and the Provincial Municipal Act, section 39, do not contain the word 'other' as in this Bill, and I suggest that it may be omitted."

The Hon'ble MR. WHEELER said :—

"The justification for the word 'other' is to be found in clause 4 of the Bill, under which the President is a Trustee. The object of inserting it was to provide for the calling of a special meeting on the requisition of two of the other members."

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR said :—

"Two Trustees in any case will be other than the President. If the President wishes to call a meeting, he can of his own accord call a meeting. The word 'other' has no meaning here and is unnecessary."

The motion was then put and lost.

[*Rai Sheo Shankar Sahay Bahadur; Mr. Wheeler; Babu Bhupendra Nath Basu.*]

112. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "of" and "existing", in line 2 of clause 17 *d*) [*now 18 (d)*], be omitted.

He said :—

"This is a formal amendment, and I beg to move that the words 'of' and 'existing', in line 2 of clause 17 (*d*) [*now 18 (d)*], be omitted. As it stands, Sir, it is not so objectionable, but I would ask Your Honour to read it along with sub-clause *3* of clause 19 (*now 21*) on the next page. In one place we have the words 'half of the existing number', and in another place 'half the number' is used obviously in the same sense. There seems to be some difference: if there is any difference it should be clearly specified. I would point out, Sir, that this question about *quorum* is a very important question which will affect the action of the Board in certain respects, and may form the subject of judicial decision.

The Hon'ble Mr. WHEELER said :—

"I do not think that there can be any reasonable objection to the wording of the clause as it stands. It may be possible that, from time to time, there will be vacancies among the Trustees, and a short interval in filling them up, and it is desirable to leave no doubt as to the number with reference to which the quorum is to be calculated. The discrepancy with clause 19 (*3*) [*now 21 (3)*], to which the Hon'ble Member has drawn attention, does not really exist, because that has reference to a committee, and a person who was not a member of the Trust at the time is not in the least likely to be appointed to a committee, the duration of which is temporary. The only objection to the wording of the clause would be if there was some danger of business being run through without the presence of a reasonable number of members, and that is not in the least probable."

The motion was then put and lost.

113. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "the Trustees present shall choose one of their number to preside" be substituted for the words "one of the Trustees present, who is chosen by the others who are present", in clause 17 (*e*) [*now 18 (e)*].

He said :—

"I beg to move that the words 'the Trustees present shall choose one of their number to preside' be substituted for the words 'one of the Trustees present, who is chosen by the others who are present'. The wording used in this clause is, I submit, not very happy. It does not follow the wording of the Bombay Improvement Act, section 18, clause (*d*), nor that of the Calcutta Municipal Act, section 81, clause (*2*). It is so worded as to exclude the person so chosen from taking part in his own election. My submission is that the wording of the Calcutta Municipal Act be adopted."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I beg to support this objection with Your Honour's permission. The difficulty which has been pointed out by my friend, the Hon'ble Rai Sheo Shankar Sahay Bahadur, is, I think, a real difficulty, because the President of the meeting will be chosen in the absence of the President by all the members present, so that the person who is going to preside before he does preside will have the vote. Otherwise, the man who would preside will have to be kept aside and the others will vote for him. That will create a difficulty in the mode of selection. I think that, by the adoption of the words recommended in the amendment, the difficulty will disappear."

The Hon'ble MR. WHEELER said :—

"I am afraid, Sir, I am somewhat at a loss to discover where the difficulty comes in. The wording of the clause is, 'the person to preside at a meeting shall be the President, or, in his absence from any meeting, one of the Trustees present, who is chosen by the others who are present.' The proposal

[*Babu Bhupendra Nath Basu; the President; Mr. Wheeler; Babu Deba Prasad Sarbadhikari.*]

is to substitute that 'the Trustees present shall choose one of their number to preside.' It seems to me to be practically the same thing. If I have understood the argument of the Hon'ble Member, it is that the Trustee elected as President should not vote for himself. This can scarcely be avoided, because there is no possible means of knowing beforehand who will be chosen."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Well, Sir, when the election does take place, it will be invalidated by reason of the man who is chosen by the others having voted for himself, so that if 'A' is going to preside, he could not have voted either for himself or for anybody else."

The PRESIDENT said :—

"Is it that the Hon'ble Mr. Wheeler does not see any possible objection to the form of the wording?"

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I do not think so. It is in the definition 'one of the Trustees present, who is chosen by the others who are present.' It is in apposition to the word 'one'. I do, therefore, feel that there is a difficulty."

The Hon'ble MR. WHEELER said :—

"I see no harm in accepting the amendment, although I do not quite appreciate the advantage of it."

The motion was then put and agreed to.

114. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, for clause 17(*e*) [*now 18(e)*], the following be substituted, namely :—

(*e*) the President shall preside at all meetings, but, in his absence from any meeting or during any portion of the proceedings of any meeting, any other Trustee elected by the other Trustees present may preside.

He said :—

"I did not propose this amendment as a matter of principle so much as one of wording, and, if it appeals to the department it may be adopted; otherwise, under the canon that I have laid down for myself with regard to these amendments, I do not press it. If it is adopted, I find my own wording is capable of improvement, and the word 'other,' between 'any' and 'Trustee', may be left out, which, I think, would also meet the last amendment that has been adopted."

The Hon'ble Mr. Wheeler said :—

"I think, Sir, that the adoption of the amendment, which has just been accepted, removes the difficulty, and the Hon'ble Member will probably not press this further change."

The motion was then, by leave of the President, withdrawn.

Clause 17A(1) [*now 19(1)*].

115. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associate with themselves" be substituted for the words "add to their number", in line 1 of clause 17A(*1*)[*now 19(1)*].

He said :—

"Sir,—In place of the words 'add to their number' I propose the substitution of the words 'associate with themselves', for this reason, Sir, that the addition to the number may involve having rights which are inconsistent with those that are given to the co-opted members,—a word which finds place in the University Act. I take it that these members are to be called in for the

purpose of advice or assistance, and, although, later on, I move an amendment which, if adopted, will give them the right of voting with regard to particular questions that they may be called to assist in, there would be an object in making it quite clear that, when they are called in, they are not called in as members but as associates whose advice and assistance the Board would like to have, and which the self-respect of my friend, the Hon'ble Babu Bhupendra Nath Basu, would not stand in the way of their rendering."

The Hon'ble MR. BOMPAS said:—

"Sir,—I should be willing to accept this and the consequential amendments if it were not that amendments 118 and 120 stand for debate. If those amendments are rejected, I agree that the words 'associate with themselves' are preferable to the words 'added to the Board'. And with your approval, Sir, I would suggest that this amendment should stand over until we see the fate of amendments 118 and 120."

The PRESIDENT said:—

"Do you agree to that suggestion?"

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—Without claiming to be a very good prophet, I can foresee the fate of that amendment, if the Hon'ble Mr. Bompas fails to do so. I do, however, think that the substitution would be an improvement, and, for once I am glad that my hon'ble friend thinks that anything which comes from us is likely to be suitable. Though it will help the adoption of these words, I do not wish to stand in the way of the arrangement which the Hon'ble Mr. Bompas proposes."

The PRESIDENT said:—

"Then we will take 115 and 116 after 120."

The motion was then postponed.

The following motion was also postponed:—

Clause 17A(2) [now 19 (2)].

116 If Motion No. 115 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "associated with themselves by the Board" be substituted for the words "added to the Board", in line 1 of clause 17A(*2*) [*now 19*(*2*)].

117. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "may" be substituted for the words "shall have a right to", in line 2 of clause 17A(*2*) [*now 19*(*2*)].

He said:—

"Sir,—This is a crucial matter, and I think that, self-respect or no respect, people, who are called in to assist and advise the Board with regard to special and technical matters that may be particularly within their purview, ought to be given some status on the Board with regard to that particular question. If that was not the intention, they might as well have been called in as expert witnesses to give the Board the benefit of their advice with regard to the matter that might be pending before the Board. In order to enable the Board to get the proper kind of men it would be essential to give them some idea of being able really and truly to assist the Board, and not to be so many figure-heads or witnesses called in for the purpose of merely getting their ideas and opinions. For that reason, I propose that, so far as the particular matter in question is concerned, they may be allowed to vote on the question and not merely deliberate. What the result of that vote may be, one need not ask himself or stay to examine; but it would look better, on paper certainly, if they were told that, for the time being, they were just as much members of the Board as anyone else."

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Rai Sita Nath Ray Bahadur; Babu Bhupendra Nath Basu.*]

The Hon'ble MR. BOMPAS said:—

"I think the Hon'ble Member is labouring under a misapprehension. He was asked to move amendment 117, but he seems to have spoken on 120. The amendment 117 is purely a verbal one. The clause runs—'a person added to the Board under sub-section (*1*) for any purpose shall have a right to take part in the discussions, etc.' He wants to substitute 'may' for 'shall have a right to.' I really fail to see what he gains by it. And the trend of his arguments tends to support the clause as it stands. If he would withdraw amendment 117, we could go on with No. 118."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"The Hon'ble Member is quite right, Sir. I thought I was moving item No. 120. I would drop that. I am much obliged to my hon'ble friend."

The motion was then, by leave of the President, withdrawn.

118. The Hon'ble Rai Sita Nath Ray Bahadur moved that, for the words "but shall not have a right to vote at a meeting of the Board and shall not be a member of the Board for any other purpose", in lines 3 to 5 of clause 17A [*now 19*] (*2*), the following be substituted, namely:—

and shall have a right to vote and shall be a member of the Board for all purposes

He said:—

"My view is that, when it becomes necessary to appoint a new member for any particular purpose and for a particular period, he should be a member of the Board for all purposes and should have the right of voting, as is the case in the reformed Councils; otherwise, he cannot feel much interest in the subject-matter of the discussion. I therefore beg to move that, in sub-clause (*2*), the following be substituted, 'and shall have a right to vote and shall be a member of the Board for all purposes' for the words 'but shall not' down to the end of the sentence, and in line 3, to substitute the words 'all purposes' for 'that purpose.'"

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—In this connection I beg to support the amendment moved by the Hon'ble Rai Sita Nath Ray Bahadur, for this reason that the Board, I apprehend, will always have the power of seeking the advice of men in connection with a particular matter when such advice will be desirable to have. It is not necessary to give the Board a statutory power to add to their number a gentleman whose advice or assistance is necessary, if that person—the person so added—will have no other right than to offer the advice that is sought from him. In that view, I think that this amendment is necessary. If you do call him for advice and assistance, and you think that the advice and assistance is so essential that he should be one of your members, in that case I think it is right and proper that you should give him the right to vote. Otherwise, I am afraid, except as witnesses, you will not get colleagues who will be willing to come forward to give you assistance or advice under these restricted conditions."

The Hon'ble Mr. BOMPAS said:—

"Sir,—I must resist this amendment, and I am rather surprised that it should be supported by the Hon'ble Babu Bhupendra Nath Basu, for it seems to me extremely unconstitutional. We create a Trust which is responsible to Government and to the bodies which elect members to it. On that Trust is placed the responsibility of carrying on the administration of sums placed at its disposal. Surely we cannot run the risk of the working of the Trust being conducted by its co-opted members, of whose qualifications and numbers we know nothing as yet. On the other hand, the clause, as it stands, is eminently calculated to secure that co-operation between the Board and

[Rai Sita Nath Ray Bahadur; the President; Mr. Bompas; Babu Deba Prasad Sarbadhikari.]

the members of the public for which the Hon'ble Member is so anxious. I see nothing undignified in the position of a member of the public, who is interested in any particular scheme, being invited to attend the Board and take part in its discussion and favour it with his advice; and a little later on it is provided that he will draw fees from the Board for his attendance. But that is one thing, and giving him the power of voting is quite another. You may provide for the co-operation between the Board and the public, but you cannot divest the Board of its responsibilities. The ultimate responsibility will rest with the Board, and not with the co-opted members. I oppose this amendment, Sir."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"At least I beg to suggest, Sir, that if his assistance is thought valuable, he should have the right of voting on that particular subject."

The PRESIDENT said:—

"I do not think it is open to the Hon'ble Member to modify his amendment at this stage."

The Hon'ble MR. BOMPAS said:—
"That relates to 119, Sir."

The PRESIDENT said:—

"I do not think the Hon'ble Member can alter his amendment now."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I have nothing further to say, only that he should be entitled to vote on that particular subject on which his assistance is sought."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

119. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "all purposes" be substituted for the words "that purpose", in line 3 of clause 17A (*2*).

120. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "have a right to", in line 4 of clause 17A (*now 19*)(*2*), be omitted.

He said:—

"Sir,—I beg to move this amendment and I do not wish to go over the same ground as in connection with the previous amendment. But there is just one observation that I should like to make, having regard to what has fallen from the Hon'ble Member in charge of the Bill with regard to the question of the possibility of getting the proper kind of men to associate themselves with this Board for the purposes that the Board may think fit to have their assistance in. When we were discussing the question of additional members on the Board, we were referred to this clause clause 17A [(*now 19*)], and we were told that all that was necessary by way of dealing with, if not protecting, particular interests like those of the landlord element, would be abundantly met by this clause that we are now discussing. The Hon'ble Member has referred to the possibility of these associates getting remuneration. A witness called to give his evidence would be entitled exactly to the same solatium, if that was all that was necessary to induce them to take part in the deliberations of the Board in the particular way suggested. But what we understood yesterday, and in order to give effect to that notion of things, we think that it would be necessary to give them a definite and recognised status so far as the particular matter before the Board was concerned. If the principle of co-option is to be

[*The President; Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

adopted at all, it must be adopted with all its incidents, whether they are advantageous or disadvantageous. I have referred to the Universities Act, which allows co-option and under which the members summoned and co-opted for the particular purpose are allowed to vote. That is a matter which I do not see how we can very well override if the principle of co-option is to be admitted. As the Hon'ble Babu Bhupendra Nath Basu has pointed out, if you can have them as witnesses to give you information about the particular matter in question, and you can look upon them as deliberative persons and, you can give them their fees just in the same way as co-opted members under the subsequent clause, that does not make co-option proper in the sense as it is understood in the English Acts and on the basis of which we are incorporating this provision. Let the Board stand by itself, if it so wishes. There is no obligation to co-opt, but if co-option does take place, all the incidents of co-option ought to be allowed, and the most essential ingredient of that is the right of being able to influence the vote with regard to the question on which they have deliberated. I could not vote in favour of the amendment that has just preceded, because it goes a longer way than my amendment. In the former the Hon'ble Member wanted to have these gentlemen to be members of the Board for all purposes. My amendment does not go so far, it is limited only to the particular issue before the Board for the time being."

The PRESIDENT said :—

"I question whether your amendment stands on the agenda paper. I understand you to desire that the co-opted members shall have a right to vote. The effect of the amendment on the agenda paper is that the clause, if amended, shall not confer on them the right to vote."

The Hon'ble MR. BOMPAS said :—

"The Hon'ble Member was not only labouring under a misapprehension as to when he should move this amendment, but he is now under a misapprehension as to its meaning."

The PRESIDENT said :—

"The word 'not' appears in the clause."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I am afraid, Sir, there must have been some mistake in printing, because it was intended that 'not' should come within the range of omission, and the amendment would render the clause like this—'shall vote at a meeting.' There has been some mistake, and I may be responsible for it in the hurry of the moment."

The PRESIDENT said :—

"The amendment on the agenda paper says that the words 'have a right to' be omitted. You take it that the words in the amendment should have been 'not have a right to'."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Yes : that was my intention."

The Hon'ble MR. BOMPAS said :—

"I think that the Hon'ble Member had the wording of the amendment, as it stands, in his mind when he suggested the words 'associated with' in amendment No. 10. It is because those associated with the Board would not have a right to vote that the words 'associated with' have been found desirable. They will not be in the position of witnesses in a Court but that of assessors, and no one can say that it is undignified to serve as an assessor."

The motion was then put in the latter form and lost.

[Babu Bhupendra Nath Basu; Babu Deba Prasad Sarbadhikari; the President; Mr. Bompas.]

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir,—Before we proceed to the next item, there is one matter regarding which I wish to explain. I had misapprehended the amendment of the Hon'ble Rai Sita Nath Ray Bahadur, where he sought to give the members co-opted the liberty of voting for *all* purposes. I understood it was only restricted for the purpose for which members were called in to assist, and that was why I supported the Hon'ble Member."

121. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "be deemed to" be inserted after the words "shall not", in the last line of clause 17A (*now 19*) (*2*) (*now 19*).

He said :—

"This Sir, is more a verbal amendment than anything else, and I leave this for the consideration of the department."

The PRESIDENT said :—

"I think it would be as well if it is taken after 115."

The Hon'ble MR. BOMPAS said :—

"All the same, I oppose it, Sir."

The motion was then, by leave of the President, withdrawn.

The following motions, which were postponed, were then taken up for discussion :—

Clause 17A (now 19) (1) and (2).

115. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associate with themselves" be substituted for the words "add to their number", in line 1 of clause 17A (*now 19*) (*1*).

The Hon'ble MR. BOMPAS said:—

"I think these members will be in the position of assessors, and I think that the words are suitable. We accept the amendment".

The motion was then put and agreed to.

116. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associated with themselves by the Board" be substituted for the words "added to the Board", in line 1 of clause 17A (*now 19*) (*2*).

The PRESIDENT said :—

"As 115 is accepted, I think this will be accepted also."

The Hon'ble MR. BOMPAS said :—

"This is also accepted, Sir."

The motion was then put and agreed to.

Clause 18 (now 20).

122. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associated with" be substituted for the words "added to", in clause 18 (*now 20*) (*1*) (*a*).

The motion was put and agreed to.

[*Babu Deba Prasad Sarbadhikari; Mr. Bompas; Rai Sheo Shankar Sahay Bahadur; Mr. Wheeler.*]

123. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, for the words "All proceedings of any such Committee", in clause 18 (*b*), the following be substituted, namely:—

Proceedings of such Committees.

He said:—

"This also, Sir, is a matter of drafting—'proceedings of such Committees'. I suggest 'proceedings', but I do not press it."

The Hon'ble Mr Bompas said:—

"We are advised that there is not sufficient reason for changing the wording of the clause, Sir."

The motion was then, by leave of the President, withdrawn.

Clause 19 (now 21, 2).

124. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "the members present shall choose one of their number to preside" be substituted for the words "one of the members present, who is chosen by the others who are present", at the end of clause 19 (*now 21*) (*2*).

He said:—

"This has already been accepted with reference to Motion No. 113, and this amendment is similar to it."

The Hon'ble Mr. Wheeler said:—

"This is analogous to that which has already been accepted with reference to clause 17 (*now 18*) (*c*). This may also be accepted."

The motion was then put and agreed to.

125. The Hon'ble Babu Deba Prasad Sarbadhikari moved—

(*a*) that the words "The President shall" be substituted for the words "The person to", in line 1 of clause 19 (*now 20*) (*2*),

(*b*) that the words "shall be the President", in lines 1 and 2 of the same clause, be omitted; and

(*c*) that the words "shall preside" be added at the end of the same clause.

He said:—

"This amendment, as well as the next, Sir, is a matter of drafting. I tried to bring to notice all imperfections that struck me, whether of drafting or otherwise, in the best of my light, so they may be dealt with as the department thinks fit. If this does not commend itself to the department, I beg to withdraw it."

The Hon'ble Mr. Wheeler said:—

"This has reference to clause 19 (*now 20*) (*2*), an amendment to which we have just accepted, which, I think fully meets the case."

The motion was then, by leave of the President, withdrawn.

Clause 19 (now 20) (4).

126. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, for the words "All questions at any meeting of a Committee", in line 1 of clause 19 (4), the following be substituted, namely:—

Questions at meetings of Committees.

[*Mr. Wheeler; Rai Sita Nath Ray Bahadur; Mr. Bompas; Babu Bhupendra Nath Basu.*]

The Hon'ble MR. WHEELER said:—

"This is very analogous to No. 123 and does not add anything to the Bill."

The motion was then, by leave of the President, withdrawn.

Clause 21 (now 22).

127. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "and the Chairman of the Corporation", in lines 1 and 2 of clause 21 (*now 22*), be omitted.

He said:—

"I beg to propose the deletion of the words 'and the Chairman of the Corporation'. I do not see any reason why the Chairman of the Corporation should not be entitled to receive fees like other Trustees for attending to duties which are foreign to the duties of his office as Chairman of the Corporation.

"It is well known that the Magistrate of Howrah, when appointed a member of the Port Trust, and the Collector of Customs, who virtually is an *ex officio* member of the Port Trust, though they are highly-paid officials, always receive fees (Rs. 32 for each meeting) for attending meetings of the Port Trust, and such is also the case with the members of the Board of Revenue and other Government officials when appointed members of the General Committee of the Calcutta Corporation—that they receive fees for attending meetings of the General Committee. Under the circumstances, I cannot see any justification for depriving the over-burdened and over-worked Chairman of the Corporation of his legitimate fees."

The Hon'ble MR. WHEELER said:—

"The question, Sir, is rather a moot one, and as the Hon'ble Member says, there are precedents in other cases for allowing official members to take fees. It is also the case in the Bombay Act that the municipal commissioner, an *ex officio* member of the Trust, can take fees. The idea underlying the present clause is that the Chairman of the Corporation, who is the whole-time servant of that body, and is deeply interested both in the welfare of Calcutta and in the operations of the Trust, might possibly be expected to give his help to the Trust without further remuneration. It is quite arguable however, that this is somewhat hard on him, and that there is no reason for differentiating his case from that of the other Trustees. The point is one, Sir, which might very well be left to the sense of the Council to decide."

The motion was then put and agreed to.

128. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associated with" be substituted for the words "added to", in line 2 of clause 21 (*now 22*).

The Hon'ble MR. BOMPAS said:—

"I will accept it, Sir."

The motion was put and agreed to.

129. The Hon'ble Babu Bhupendra Nath Basu moved that the words "or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee", in clause 21 (*now 22*) (*ii*), be omitted.

He said:—

"I think, this innovation, Sir, that we have introduced in clause 21 (*now 22*), should be omitted. The innovation is this: the member attending the meeting is entitled to a fee of Rs. 20. If he is a member of the Board, and if he is attending a Committee meeting, he gets a fee of Rs. 10. The original language

was, 'which he attends from the beginning to the end thereof.' The addition of the words 'or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee' does not occur either in the Bombay or in our own Calcutta Municipal Act, and therefore I do not think we ought to make a new departure and introduce those words in this Act. It is not merely a feeling of captious opposition that leads me to move this amendment; there is a principle underlying it, and that principle is this: that the members attending should be absolutely independent of the President for any matter of personal benefit. Of course, I think it will be conceded that if he is late by a very few minutes, or leaves a meeting earlier by a few minutes, nothing will be said, but if the payment of his fee is dependent upon the good will of the President, I object to it on principle, and I am fortified by precedents, as it does not occur either in the Calcutta Municipal Act or in the Bombay Improvement Act."

The Hon'ble Mr. Wheeler said :—

"I really do not think, Sir, that any very great question of principle arises on this clause, or that it is likely to undermine the independence of any members of the Board. The provision was deliberately inserted in Select Committee to provide for a case which seemed to be not only possible, but almost certain to arise, looking to the general frailties of human nature, namely, that members may not always arrive with absolute punctuality, and may also leave somewhat before the close of the meeting to attend other appointments. At the same time, for all practical purposes, they attended the business of the meeting. It is perfectly true that there is no such provision in the Bombay or Calcutta Acts, but we were told in the Select Committee—and I understand this to be the case—that the practice in Calcutta is in accordance with the clause, and these little lapses are condoned."

The Hon'ble Babu Bhupendra Nath Basu said :—

"Sir,—I do not for a moment suggest that some slight departure may not take place or may not be overlooked. That is one position of things. I suppose the Calcutta Port Trust Act is also the same, but it is quite the other way when we say that it will depend upon the sanction of the President."

A division was then taken, with the following result :—

Ayes 16.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Mr Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

Noes 27.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore

The Hon'ble Mr. J. H. E Garrett.

The Hon'ble Mr. T Butler.

The Hon'ble Mr E. P. Chapman.

The Hon'ble Mr J. G Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. L. F. Morshead

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.

The Hon'ble Mr. K. B. Dutt.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.
The Hon'ble Mr M. S. Das, C.I.E.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr F. H. Stewart.
The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Mr. T. R Filgate.

The following Members were absent:—

The Hon'ble Mr. B. C. Mitra.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhunja Deo.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The following Members abstained from voting:—

The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Mr. Dip Narayan Singh.
The Hon'ble Babu Bal Krishna Sahay.

The result of the division was, ayes 16, noes 37, and the motion was therefore lost.

130 The Hon'ble Babu Bhupendra Nath Basu moved that the words "two hundred rupees" be substituted for the words "such sum as may be prescribed by any rule made under section 136 in this behalf" at the end of clause 21 (*now 22*).

He said:—

"Sir,—I do not think that, in such an important matter as this, it should be left open in the way it is suggested under the Bill as framed, 'the aggregate amount of fees payable to any person in respect of meetings of any kind during any month shall not exceed such sum as may be prescribed by any rule made under section 136 in this behalf.' Why do you leave it at that? The Bombay Act and the Calcutta Act specifically say that it shall not exceed Rs. 200 a month. Then why should our present Act differ? I will refer to section 17 of the Bombay Act, which provides:—

'Provided that the aggregate amount of fees payable in respect of meetings held during any month shall not exceed Rs. 200, or such sum as may be fixed by any law from time to time made in this behalf'.

"I think the same thing ought to be adopted by us, instead of leaving this question of fees open for future decision. If we fix it now, we will do so before the world and will prevent any misapprehension on this subject and will make it perfectly clear that a person who comes to be a member of the Board need not expect a higher remuneration than Rs. 200 a month. Therefore, I wish to move this amendment."

The Hon'ble MR. WHEELER said:—

"The original draft of this clause in the Bill followed the Bombay Act. When the matter was considered by the Select Committee, it was considered rather absurd to mention a sum and then, in the same breath, to give absolute power to vary it. It seemed eminently more sensible to leave the amount to be fixed by rule. The amendment would go further; it would fix Rs. 200

[*Mr. Wheeler.*]

absolutely, but there is no special virtue about that sum. It is unlikely that more than that would be earned, but it is impossible to say After all, it is only a question of the volume of business to be done by the Board. If the work required a daily meeting of the Board, which is most improbable, and the principle that fees are legitimate at all is admitted, it is difficult to see why they should not be paid on each meeting. If members earn in excess of Rs. 200, they will undoubtedly have had heavy calls upon their time. If the members of the Trust are of the class we anticipate, their time spent outside the Board will almost certainly be more valuable than that spent within it, and they are not likely to make use of the Board as a money-making machine. For these reasons I would leave the maximum to be fixed by rule."

A division was then taken, with the following result:—

Ayes 16.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

Noes 32.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur

The Hon'ble Mr R. T. Greer, C.S.I.

The Hon'ble Mr. D J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr H. Wheeler, C.I.E.

The Hon'ble Mr. B K. Finnimore.

The Hon'ble Mr. S L. Maddox

The Hon'ble Mr. B. C Mitra

The Hon'ble Mr. G. W. Kuehler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr C. H. Bompas.

The Hon'ble Mr F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Shiba Nandan Prasad Singh.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hod'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr T. R. Filgate.

The Hon'ble Mr M. S. Das, C.I.E.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

[*Babu Deba Prasad Sarbadhikari; Mr. Wheeler; Mr. Bompas; Rai Sita Nath Ray Bahadur.*]

The result of the division was, ayes 16, noes 32, and the motion was therefore lost.

131. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 21 (*now 22*) be placed after clause 11, and be re-numbered accordingly.

He said:—

"Sir,—This is a matter of mere arrangement, and therefore comes under the heading of drafting. I thought that a more suitable place for this clause would be where the President's pay, house-rent and such other things are provided. If it is accepted I will move it; otherwise, I do not press for it."

The Hon'ble MR. WHEELER said:—

"We are advised that this would be no improvement."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—I realise that attitude. There would really have been no difficulty if it was accepted. However, I would withdraw it."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

Clause 21A (now 23) (1).

132. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "other", in the penultimate line of clause 21A (*now 23*) (*1*), be omitted.

132A. The Hon'ble Mr. Bompas moved that, for clause 21A (*now 23*) (*1*), the following be substituted, namely:—

21A. (*1*) A Trustee who—

(*a*) has, directly, or indirectly, by himself or by any partner, employer or employé, any such share or interest as is described in sub-section (*2*) of section 9, in respect of any matter, or

(*b*) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

shall not vote or take any other part in any proceeding of the Board or any Committee relating to such matter

He said:—

"The alteration is only in sub-clause (*b*) and is merely verbal. It seemed to us, on examination of the original clause, that it was rather obscure. I think it reads better as it is shown in the amendment."

The motion was put and agreed to.

Clause 21A (now 23) (2).

132B. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "then, if he is cognisant of having such beneficial interest" be inserted after the word "Act", in line 7 of clause 21A (*now 23*) (*2*).

He said:—

"My motion is not as printed in the list of Business, but it has reference to clause 21A (*now 23*) (*1*). My object in moving this amendment is that a large land-owner like the Maharaja of Cossimbazar or Maharaj-Kumar Hrishikesh Laha cannot possibly know every *chittak* of land which he owns in Calcutta. So it is not unnatural that he might take part, though unwittingly, in the discussion about the improvement of an area in which he may own some land. This amendment proposes to guard against a Trustee being removed from the Board in such a case."

[*Mr. Bompas; Babu Bhupendra Nath Basu.*]

The Hon'ble MR. BOMPAS said:—

"Sir,—I oppose this amendment on the ground that it is unnecessary. The clause says that if any Trustee has an interest in any land situated in an area comprised in any improvement scheme, he shall inform the President of the Trust of that interest and shall not vote in such matter, and shall leave it to the discretion of the President whether he should take any other part in the matter. That is a very wholesome provision and it does not lay down that a man should do what is not possible for him to do No one can report a matter of which he is not cognisant. It is incredible that Government should exercise the power conferred by clause 15B (*now 15*) of removing a Trustee without giving him an opportunity for explanation. If a Trustee fails to report the existence of any interest owing to his being ignorant of such interest, naturally no fault would have been committed and Government would certainly not take action against him."

The motion was then put and lost.

133. The Hon'ble Babu Bhupendra Nath Basu moved that clause 21A (*now 23*) (*2 (iii)*) be omitted.

He said:—

"Sir,—This clause seeks to provide that any Trustee, who has any interest in any land covered by the improvement area, directly or otherwise, shall inform the President that he has such interest and shall not vote upon any resolution relating to the land which he possesses. There can be no objection to that part of the procedure, and we do not object to it. The next proviso is that 'he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area, if the person presiding at the meeting considers it that he should do so.' I conceive, Sir, that, in the improvement schemes that will be framed under this Act when passed, large areas will be taken up for consideration—areas probably aggregating, say, 10,000 bighas in one scheme. In this area a Trustee A may have a *chittack* of land or a small house. It is quite conceivable that, so far as that scheme affects that house, he shall not be entitled to vote. But I do not understand why he should be precluded from voting in reference to other parts of the scheme which do not affect the house that belongs to him. It is stated that he will be allowed to take part if the President permits him to do so. Well, in the first place, I should like to know what is the objection to his taking part in other schemes. I shall take a concrete case. Suppose you want to open up a large square in the congested area, somewhere in the area between Beadon Street on the south and Grey Street on the north. Far from that square towards the north, a Trustee A may have a plot of land which is in no way affected by this square but which may, however, very remotely affect that improvement in that block, and if he is precluded, except by the permission of the President, to take part, then, so far as he is concerned, his advice or assistance will not be wanted, and he will not be able to have a voice in the improvement of an area in which he is otherwise very much concerned. It may be said, in answer, that such a contingency will not arise, for the President will not veto his power of taking part under circumstances like that. That I am ready to concede. I am ready to concede that the President will act as a reasonable man; but, at the same time, it gives a very large power of control to the President, and it makes the task of Calcutta men who may be Trustees very difficult, and their position one of very great difficulty. The President will be the final authority. If, for instance, a Trustee, who has taken up an antagonistic attitude in reference to some improvement, in a very small part of which he may have interest, it is quite possible—I do not say that it will happen—that he may be precluded from taking any part in the proceedings of the meeting which will consider the question of improvement in this area. What I say is this. Give me definite rules. Say under these circumstances you will have a vote, and under the other circumstances you will not, but do not leave me to the tender mercies of the President who may be an autocrat and who may not like that his voice should be opposed by a man

whom he might otherwise throttle. I should not like, under any circumstance, to put my liberty of conduct merely at the discretion of the President. I do not object to definite rules, and I think that nothing can be fairer than this that if any part of that scheme affects my property, so far as that part is concerned, I cannot vote, but I do not see the object of vesting the President with the power of stopping me from taking any part in other parts of the scheme in which I am neither directly or indirectly concerned; and therefore I move this amendment."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"All that I say in support of this amendment is that the sub-clause would, if allowed to stand, place a landlord, who may own land in different parts of Calcutta, entirely at the mercy of the President as to whether he should take part in the proceedings or not. And if he is so inclined, he can prevent any such member from taking any part in the proceedings of the Trust. What I want is a definite proposition which will allow him to take part."

The Hon'ble MR. BOMPAS said:—

"I would oppose this amendment, Sir. I think that if sub-clause (*iv*) is removed, we shall expose ourselves to far greater evils than those which have struck the imagination of the mover of this amendment. I submit that it is most essential that this Trust, which will have an enormous power of interference with private property, should be above suspicion, and that it should command the confidence of the public. The object of the clause is that, when the Trust deals with an area which is the subject of an improvement scheme, not only shall the members who own houses or land in that area not have the power to vote about any question directly relating to such houses or land, but also that if a Trustee has an interest in any land in the area which might give reasonable ground for doubt on the part of any other land-holder in that area, that that Trustee is quite impartial, then also the Trustee should take no part in the proceedings. Take the case of a Trustee, for example, who has a dwelling-house in one corner of an area in which it is proposed to make a public square. The exact position of the square is to be determined; it may be a hundred yards to the east or a hundred yards to the west. It would very seriously affect the interest of people owning houses in that area. The question may only indirectly affect the dwelling-house Trustee, and it would be unfair for him to take part in the discussion on that particular matter. And it is very undesirable that the public should have any suspicion. As to placing the Trustee at the mercy of the President, I fail to see any force in such an objection, and I do not think that any hard-and-fast rules can be laid down as a guide for conduct in such matters. It will very often be more a matter of good taste than of right or wrong. Such questions are very difficult to decide for oneself. As the clause stands, the Trustee will say to the President, 'I have such and such interest in this land, and such and such a question is before us. I put myself into your hands as to whether I should take part in the proceedings or no.' For my part I do not see that any gentleman would object to taking up such an attitude. I should have thought it a most satisfactory way of dealing with such a question."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"It seems to me, Sir, that no reasonable principle is followed in the framing of this measure that we are discussing. When we have a precedent in our favour we take as much of it as suits us. When we protest that the Bombay model which we are following in this does not agree, then we are met by the answer that we know better than the Bombay people do, and when we say that this should not be done we are told that this must be done because it is in Bombay. This does not occur in the Bombay Act and we have not heard that they feel any real difficulty. It is borrowed from an Act for which I suppose even my friend in the opposite will have some deference. It is borrowed from an English Statute—the Housing and Working Classes Act

of 1890. Section 88 of that Act says, a person should not vote as a member of a local authority or County Council or any Committee thereof upon any resolution or question which is proposed, if it relates to any dwelling house or land in which he is beneficially interested. We are quite content with that, and that is amply covered by clauses (*i*) and (*ii*). Then why is it that my friend goes beyond clauses (*i*) and (*ii*)? That raises a suspicion in my mind. If the English people have found that clauses (*i*) and (*ii*) have been a sufficient safeguard for the protection of public interests, for maintenance of the integrity and the preservation of the interests of that body, of which I am as much solicitous as my hon'ble friend opposite is, then why is it that he brings in clause *iii*? I do not wish to make any personal observation, but in this case the difficulty is enhanced by the fact that the President is a Government officer, and the person that may be objected to may be the only representative of a non official element in that country. Sometimes it is very convenient to ignore these troublesome non-official representatives: they talk more than is desirable; they take up more time, and therefore what is there to prevent him from the exercise of this authority which even the Speaker in the House of Commons does not possess, and which even the Lord Chancellor in the House of Lords does not possess, but which this official —always inexperienced of these things, because he has no training in the public life of his own country and a source often of grave danger in matters which concern great public questions—is to be made the sole judge and arbiter? Supposing I, Bhupendra Nath Basu, was a member of the committee. Because I have some miserable dwelling-house, not even fit to be a pigstye, in some part of Calcutta, is that sufficient reason why I should be precluded from having any part in the discussion of a scheme which relates to a large area in some corner of which I have this ancestral dwelling-house. If you appoint a man in whom you have not that trust, you are responsible. My friend was saying that, he makes the composition of that body so ludicrously absurd, having regard to the necessities of Calcutta, having regard to its requirements, dimensions and to the necessity that will have to be considered by this committee, he makes it so small, because he wants the pick of the men in this town, the pick of the men who are interested in this question. Cannot you trust the pick of men in such a small matter as this? Do you think that their character for integrity is so low that you cannot allow them to use their own discretion as to whether they should take part or not? It will affect the position and the character and the standing of your Board in the public eye. Is that, after all, what your small numbers mean? If that is not so, if you choose your members with great deliberation, as you say you will, why should you seek for powers which are nowhere else to be found, either within or outside India? Why is it? Will you explain that? Therefore, am I not entitled to feel that there may be something behind which may be used occasionally, at a time of great excitement, to stifle the only opposition that may be offered in a committee the composition of which is largely official? These are the grounds upon which I move this amendment."

A division was then taken, with the following result:

Ayes 19.	*Noes 29.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. E. W. Collin
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr. J. G. Apear.	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.
	The Hon'ble Mr. E. P. Chapman.
	The Hon'ble Mr. J. G. Cumming.

[*Rai Sita Nath Ray Bahadur; Babu Bhupendra Nath Basu; Babu Deba Prasad Sarbadhikari; Mr. Apcar.*]

The Hon'ble Mr. Golam Hossein Cassim Ariff.
The Hon'ble Dr. Abdullah al-Mamun Suhrawardy.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B. Dutt
The Hon'ble Rai Sheo Shankar Sahay Bahadur.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr Dip Narayan Singh
The Hon'ble Babu Bal Krishna Sahay.

The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Mr. S. L Maddox.
The Hon'ble Mr. B C. Mitra.
The Hon'ble Mr G. W. Küchler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Lt.-Col Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. F. H Stewart.
The Hon'ble Mr W. J. Bradshaw.
The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Mr. T. R Fulgate.
The Hon'ble Mr. M. S. Das, C.I.E.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes *19*, noes *29*, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

133A. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 21A (*2*) (*iii*) be omitted.

134. The Hon'ble Babu Bhupendra Nath Basu to move that the word "and", at the end of sub-clause (*ii*) of clause 21A(*2*), be transferred to the end of sub-clause (*i*).

135. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associated with" be substituted for the words "added to", in line 1 of clause 21A(*2*).

The motion was put and agreed to.

Clause 22 (now 24).

136. The Hon'ble Mr. Apcar moved that the words "and perform", in line 1 of clause 22 (*now 24*), be omitted.

He said:—

"Sir,—I have studiously abstained from intervening on any question of drafting, but these two words 'and perform' have attracted my attention almost every time I have looked at this Bill. I have thus been induced to submit that these two words should be omitted. They are not wanted there. You give a discretion to enter into contract and you withdraw it after the contract has been entered into. I submit this merely for the consideration of the Hon'ble Member in charge."

[*Mr. Wheeler; Mr. Apcar; Babu Bhupendra Nath Basu; Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble MR. WHEELER said:—

"We are unable to discover any particular advantage in omitting these words, although the matter has been considered in the Legislative Department. The wording is precisely the same as that of section 86(1) of the Calcutta Act. I think that the Bill had better be left as it is."

The Hon'ble MR. APCAR said:—

"Sir,—I do not accept the Municipal Act as a precedent. I have merely suggested the amendment."

The motion was then, by leave of the President, withdrawn.

Clauses 23 and 24 (now 25 and 26).

137. The Hon'ble Babu Bhupendra Nath Basu moved that, for clauses 23 (*now 25*) and 24 (*now 26*), the following be substituted, namely:—

23. (*1*) Every such contract involving an expenditure not exceeding one thousand rupees shall be executed by the President on behalf of the Board.

Execution of contracts and approval of estimates.

(*2*) A contract involving an expenditure exceeding one thousand rupees shall be executed by the President on behalf of the Board, and sealed with the common seal of the Board.

(*3*) A contract involving an expenditure exceeding one lakh of rupees shall not be entered into without the previous sanction of the Local Government to such expenditure.

(*4*) No contract shall be entered into unless the estimate for the work to be done under such contract has been previously sanctioned by the Board, and, in cases involving an expenditure exceeding one lakh of rupees, unless such estimate has been sanctioned by the Local Government.

(*5*) Same as sub-clause (*3*) of clause 24 of the Bill.

(*6*) Same as sub-clause (*4*) of clause 24 of the Bill.

(*7*) Same as sub-clause (*5*) of clause 24 of the Bill.

He said:—

"Sir,—In this motion I have suggested an alternative form of draft for clauses 23 (*now 25*) and 24 (*now 26*), which to my mind seemed a simpler way of dealing with the matters that are to be dealt with by these two clauses. This should have been considered by the gentleman in charge of the Bill, and if he does not consider it desirable, I do not wish to press for it."

The Hon'ble MR. BOMPAS said:—

"Sir,—I do not accept this amendment because it seems to me that, under the proposed clause, it would be possible for the President and one Trustee to execute the contract without the sanction of the Board, which would still be binding in law upon the Board. I prefer the clauses as they stand in the Bill."

The motion was then, by leave of the President, withdrawn.

Clause 23 (now 25).

138. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "the Board and", in line 3 of proviso (*d*) [*now* (*b*)] to clause 23 (*now 25*) (*1*), be omitted.

He said:—

"Sir,—The previous sub-clause (*c*) [*now* (*a*)] declares that contracts between Rs. 1,000 and one lakh of rupees shall not be made by the President without the previous sanction of the Board. In the subsequent clause, we seek to enact, with regard to contracts above one lakh of rupees, that the sanction of the Local Government is essential. This is to be taken for granted. In fact, what is provided later on in various clauses is that nothing that has not been considered and sanctioned by the Board can possibly go up before the Local

Government, and, therefore, to my mind it appears that if we have merely a provision that no contract above one lakh of rupees shall be sanctioned without the previous sanction of the Local Government, it will amply meet the requirements of the case, and the words I seek to delete are not necessary. It is merely a question of drafting."

The Hon'ble MR. BOMPAS said:—

"I do not agree that it is merely a matter of drafting, because, if it is accepted, it will change the meaning of the clause altogether, and deprive the Board of any control over contracts exceeding one lakh of rupees. The clause says that a contract not exceeding a lakh of rupees requires the previous sanction of the Board. Then we come to contracts above a lakh of rupees. If we say that it must require the sanction of the Local Government, it need not come before the Board first, before going to the Local Government. Surely the Hon'ble Member does not mean that the Local Government should enter into a contract without any reference to the Board."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Well, Sir, if that would be the effect of my amendment, I would not press it at all."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

139. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "who is", in line 3 of clause 23 (*1a*) [*now 25* (*2*)] be omitted.

140. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "make or", in line 4 of clause 23 (*1a*) [*now 25* (*2*)], be omitted.

Clause 24 (*now 26*).

141. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "and" be substituted for the words "except that", in line 4 of clause 24 (*now 26*) (*1*).

He said:—

"That also is a matter of drafting, which I leave to the department."

The Hon'ble MR. BOMPAS said:—

"I do not consider it necessary to accept it, Sir."

The motion was then, by leave of the President, withdrawn.

142. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "in addition to" be substituted for the words "distinct from", in line 1 of clause 24 (*now 26*) (*4*).

He said:—

"I take it, Sir, that what is intended by sub-clause (*iv*) is that a signature of the Trustees is and shall always be distinct from the signature of the witnesses. I believe it is intended that over and above a signature of the Trustee, there shall be the signature of a witness. That ought to be clearly provided for. It is more than a matter of drafting, and I therefore ask that the matter may be considered by the Council."

The Hon'ble MR. BOMPAS said:—

"The clause, as it stands in the Bill, follows the wording of the Calcutta Municipal Act, but I have no objection to accepting this amendment."

The motion was then put and agreed to.

[*Babu Deba Prasad Sarbadhikari; Mr. Bompas; Babu Bhupendra Nath Basu; Mr. Wheeler.*]

143. The Hon'ble Babu Deba Prasad Sarbadhikari moved that sub-clause (*4*) of clause 24 (*now 26*) be placed before sub-clause (*3*), both sub-clauses being re-numbered accordingly.

He said :—

"This is a matter of arrangement, which I leave to the discretion of the Hon'ble Member in charge."

The Hon'ble MR. BOMPAS said :—

"The official advice is not in favour of the rearrangement."

The motion was then, by leave of the President, withdrawn.

Clause 24A (now 27) (1).

144. The Hon'ble Babu Bhupendra Nath Basu moved that the words "any contract is entered into" be substituted for the words "the President enters into any contract", in lines 1 and 2 of clause 24A (*now 27*) (*1*).

He said :—

"Does the Hon'ble Member in charge accept this amendment?"

The Hon'ble MR. BOMPAS said :—

"No: I do not think that there is any necessity for accepting this amendment."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

145. The Hon'ble Babu Bhupendra Nath Basu to move that the words "the President" be substituted for the word "he", in line 4 of clause 24A (*now 27*) (*1*).

146. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "local", in line 5 of clause 24A (*now 27*) (*1*), be omitted.

He said :—

"These matters ought to be more largely advertised than merely in the local papers. Of course, so far as the discretion of the Board is concerned, it would be unfettered if it were left merely as a requisition of advertisement in newspapers. It would be useful to advertise it in some papers outside Calcutta."

The Hon'ble MR. WHEELER said :—

"The wording of the clause follows section 88 of the Calcutta Act, which also runs that 'the General Committee shall give notice by advertisement in local newspapers inviting tenders for such contract.' The meaning of the word 'local' will be understood by a reference to clause 163 (*now 164*). The object of the clause is briefly that public notice should be given of all tenders, which is most essential, and the most important point is to give notice *locally*. The corresponding section of the Calcutta Act does not debar them from also advertising in newspapers outside Calcutta, and there seems no objection to the retention of the word 'local' in the clause."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I take it, Sir, that if the amendment were accepted, the local newspapers would not have been excluded. So far as clause 163 (*now 164*) is concerned, no doubt, it is a comprehensive section, but some of the advertisements required in the Bill refer to local matters, where advertisement merely in the local newspapers may be useful, but in matters like contracts involving large sums, it

[*Babu Deba Prasad Sarbadhikari; Mr. Slacke; Babu Bhupendra Nath Basu.*]

would be desirable to have the liberty of advertising in newspapers other than Calcutta newspapers."

The motion was then put and lost.

The following motions were, by leave of the Council, withdrawn:—

Clause 24A (now 27) (4).

147. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "which has been made", in lines 2 and 3 of clause 24A (*now 27*) (*4*), be omitted.

148. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "of such", in line 6 of clause 24A (*now 27*) (*4*), be omitted.

149. The Hon'ble Babu Deba Prasad Sarbadhikari to move that, for the word "appears", in line 6 of clause 24A (*now 27*) (*4*), the word "appear" be substituted.

150. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "upon a view of all the circumstances", in lines 6 and 7 of clause 24A (*now 27*) (*4*, be omitted.

151. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or may direct the rejection of all the tenders submitted to them", at the end of clause 24A (*now 27*) (*4*), be omitted.

Clause 25 (now 28).

152. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "involving an expenditure exceeding one thousand rupees", at the end of clause 25 (*now 28*), be omitted.

He said:—

"I move for the omission of this word, because I do not quite see the reason why the security that is considered necessary in other cases, involving expenditure of more than a thousand rupees, should be omitted in the case of smaller contracts. It is the experience of all, who have to deal with these matters, that it is the smaller contracts which often give trouble, and if there is the safety of security with regard to them, business would be put on a surer footing than otherwise. We must not forget that a hundred thousand rupees make a lakh, and hundreds of those insecure contracts may go their own way, and will lead to difficulty that we cannot foresee now. If we insist on securities in every case, public business would certainly be more safeguarded. With regard to well-known and large contracts, the question of security may often have less bearing than it has in the case of smaller and obscure, unknown men, upon whom it is difficult to have a hold."

The Hon'ble MR. SLACKE said:—

"I gather from what the Hon'ble Member said that he is of opinion that there must be a limit somewhere, for it would be absurd to take security for small contracts. Here, at least, we might go by precedent, which is borrowed from the Calcutta Municipal Act. It has existed for the last 11 years, and there have been no drawbacks experienced, so far as I know. I would ask the Council therefore to follow the precedent of the Calcutta Municipal Act, and reject this amendment."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Unfortunately, in this case, the precedent of the Calcutta Municipal Act has not been followed. The Calcutta Municipal Act, section 89 lays down this: 'The Chairman shall take sufficient security for the due performance of every contract into which he enters after a tender has been accepted, and may, in his discretion, take security for the due performance of any other contract into which he enters.' After a tender has been accepted he must take security, whereas this is a departure from the precedent of the Calcutta Act."

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Apcar; Rai Sita Nath Ray Bahadur.*]

The Hon'ble MR. BOMPAS said:—

"Sir,—It is true that the wording of the clause does not follow, word for word, the precedent of the Calcutta Act. But I can say that the meaning is the same. The Chairman should take sufficient security for the due performance of contracts in connection with which a tender has been called for. But there is no provision which makes it necessary to call for tenders over Rs. 1,000. Thus the Calcutta Act is in effect the same as the clause in this Bill. It is quite true that section 89 also makes it optional for the Chairman to take security in smaller contracts, but surely it is not necessary to put that into the Bill. It may be left to the discretion of the President. But what the Bill does is to require the President to take security for greater sums."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—I think that, if the Calcutta Municipal Act is to be accepted as our model with all its known irregularities, we may no doubt adhere to the Act in this instance, and it provides that the Chairman of the Calcutta Corporation has discretion in the matter by actually taking a security wherever he thinks it necessary. Reference has been made to what obtains in the Calcutta Corporation in regard to smaller contracts. I do not of course know what happens now. But when I was a Commissioner, many years ago, the difficulty was with regard to the smaller contracts and not with the larger ones. Things may have improved now, but that is no guarantee against similar things happening again with regard to the new Trust."

The motion was then put and lost.

Clause 26 (now 29) (1).

153. The Hon'ble Babu Bhupendra Nath Basu moved that the words "and the Chairman of the Corporation" be inserted after the words "the Local Government", in line 2 of clause 26 (*now 29*) (*1*).

He said:—

"I think, Sir, this is an amendment which is essential. If my hon'ble friend accepts it, I will move it. By this amendment I seek to introduce a condition that the President, when forwarding a copy of the minutes to the Local Government, shall forward a copy to the Chairman of the Calcutta Corporation, a body which is so essentially interested in the business of this Trust. I do not see what harm there will be—what difficulty there may be entailed—by the incorporation of this provision that a copy of the proceedings should be sent to the Chairman as well, having regard to the interests of the Corporation at stake."

The Hon'ble MR. BOMPAS said:—

"No, I certainly do not accept it."

The Hon'ble MR. APCAR said:—

"I beg to support my hon'ble friend."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"My view is, Sir, that the assets and liabilities of the Trust will devolve upon the Calcutta Corporation. The Corporation is vitally interested in all proceedings. It is only necessary and fair that the Corporation should be kept informed as to what is going on in the Trust, so that it may take action when necessary. I think there is no harm in sending a copy of their proceedings just as the Trust will send copies of their proceedings to the Local Government. With these words I beg to support this amendment."

The Hon'ble MR. BOMPAS said:—

"Sir,—I oppose this amendment, and I do not fully appreciate the arguments in support of it, and I do not think they have been such as to carry

[*Babu Bhupendra Nath Basu; Mr. Wheeler; Rai Sita Nath Ray Bahadur.*]

conviction. In the first place, the Trust is not subordinate to the Corporation in any sense whatever, and there seems to be no reason why it should send its proceedings to a co-ordinate authority any more than to any other public body in Calcutta. Of course, if the proceedings are to be sent to the Chairman of the Corporation, it is not intended that they should be for the private information of the Chairman, because he is a member of the Trust and is fully cognisant of what is going on in the Trust: they must be meant for communication to the Corporation. It has been repeatedly said from the very beginning of the Bill that the proceedings of the Trust should be kept as confidential as possible, and that purpose will be frustrated if the proceedings are sent to the Corporation. I submit there is no ground for sending these proceedings to the Corporation."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"After the explanation that we have heard from the Hon'ble Mr. Bompas, I do not wish to put my amendment to the vote."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn :—

154. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and the Corporation" be inserted after the words "Local Government", in line 2 of clause 26 (*now 29*) (*1*).

Clauses 26 and 17 (now 29 and 18).

155. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clauses 17 (*now 18*) and 26 (*now 29*) be placed after clause 17 A (*now 19*), and be re-numbered accordingly.

Clause 27.

156. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, for the words "The Board shall prepare and maintain", in line 1 of clause 27 (*now 30*), the following be substituted, namely :—

The Board shall from time to time prepare and shall maintain.

The Hon'ble MR. WHEELER said :—

"The statement will undoubtedly be prepared on more than one occasion, and there is no harm in adding the words 'from time to time'."

The motion was put and agreed to.

157. The Hon'ble Rai Sita Nath Ray Bahadur moved that, for lines 1 and 2 of clause 27 (*now 30*), the following be substituted, namely :—

The Board shall, after they are constituted, prepare and submit for the sanction of the Local Government a statement showing—

He said :—

"Sir,—My object in moving this amendment is that the Government should have some control over the establishment charges of the Board, and the checking of expenditure should not be left entirely to the Board. In the initial stage it is necessary that Government should be in a position to judge as to the strength of the establishment, whether it is going to be large or small. I therefore beg to submit that, after the Board is constituted, the Board should prepare and submit, for the information of the Local Government, a statement showing the number of officers. Moreover, the Calcutta Municipal Act, so far as higher appointments are concerned, has specified and enumerated the number of higher appointments and salaries attached to them. In this case also, the Board should prepare and submit a statement showing the number of higher appointments and salaries attached to them, so that the public and the Local Government may be in a position to judge of the amount of expenditure that would be incurred by the Board in maintaining the establishment."

[*Mr. Wheeler; Babu Bhupendra Nath Basu; Mr. Slacke; Rai Sita Nath Roy Bahadur; Babu Deba Prasad Sarbadhikari*]

The Hon'ble MR. WHEELER said:

"I think, Sir, the amendment is open to objection. The wording of it, for one thing, appears to be defective. The words 'after they are constituted' seem to be unnecessary, as the Board will certainly not take action before it is constituted. The amendment would, moreover, clash with what has just been approved by the Council; these statements will be prepared on more than one occasion, and is it contemplated by the Hon'ble Member that they should all be submitted for the sanction of the Local Government? The statements are to contain the number, designations and grades of all officers and servants other than temporary employés, the salaries, fees and allowances to be paid to each such officer and servant, and the contributions payable under clause 144A (*now 146*) in respect of them. They will thus include very lowly paid servants of the Trust, and is it really necessary that all such details should be approved by the Local Government? Even in the case of ordinary municipalities, it is only with appointments of over Rs. 200 that the Local Government exercises control, although the Commissioner has power as regards posts over Rs. 100. In the case of the Calcutta Corporation, the salary limit is Rs. 1,000, and from clause 51 (*now 33*) of the Bill it will be seen that Government sanction is already required in the case of the higher paid officers of the Board. It is sufficient that the control of the higher appointments should rest with Government, and to require it to scrutinise these petty matters would render possible a most unjustifiable degree of interference."

The motion was then put and lost.

Clause 30 (now 32)

158. The Hon'ble Babu Bhupendra Nath Basu moved that the words "two hundred" be substituted for the words "three hundred", in clause 30 (*now 32*) (*a*).

He said:—

"Sir,—I think that the limit should be reduced from Rs. 300 to Rs. 200 for servants of the Board, in whose case the President is to be vested with the sole power of reducing, suspending or dismissing, and this is the reason of this amendment."

The Hon'ble MR. SLACKE said:—

"I am unable, Sir, to accept the Hon'ble Member's amendment, because I would prefer to follow a precedent, and the precedent in this case is to be found in the Bombay Act. In Bombay the limit is Rs. 300, and it will, I think, also be found suitable in Calcutta."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

'Unfortunately, Sir, the conditions of Bombay and Calcutta are not exactly identical, and in many instances, as I have pointed out, we have deviated from the precedent of Bombay, and in this also, I think, we may deviate with some benefit."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

159. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "two hundred" be substituted for the words "three hundred", in clause 30 (*now 32*) (*a*).

160. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "reduced, suspended or" be inserted before the word "dismissed", in line 3 of the proviso to clause 0 (*now 32*).

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

161. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "whose decision shall be final", at the end of clause 30 (*now 32*), be omitted.

[Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari; Mr. Bompas; Mr. Apear; Maulvi Saiyid Muhammad Fakhr-ud-din; Mr. Wheeler.]

Clause 31 (now 33).

162. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "seven hundred" be substituted for the words "one thousand", in line 2 of clause 31 (*now 33 (a)*).

163. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "seven hundred" be substituted for the words "one thousand", in line 3 of clause 31 (*now 33*) (*c*).

Clause 32 (now 34)

164. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "in matters of executive administration and in matters concerning the accounts and records of the Board", in lines 3 and 4 of clause 32 (*now 34*), be omitted.

He said:—

"Sir,—I confess I do not understand quite the meaning of the words, the omission of which I seek by this amendment. There is no reason why the President's supervision should be limited to supervision only of the 'executive administration' whatever that may mean. I cannot approve of this unaccountable self-abnegation."

The Hon'ble MR. BOMPAS said:—

"I am prepared to accept this amendment, Sir."

The motion was then put and agreed to.

Clause 33 (now 35).

165. The Hon'ble Mr. Apear moved that the words "subject to the control of the Board," be inserted after the word "may", in line 1 of clause 33 (*now 35*) (*1*).

He said:—

"Sir,—The Council will see what large powers of delegation are here conferred upon the President. With the exception of very few of the most important duties, and duties which could not possibly be delegated, which could not be delegated by the President, he has authority under this clause to delegate any of his duties to any officer. It seems, Sir, an acknowledgment that he has not got time to perform all these duties, and, I think, the Board should be treated as the central authority, in the same way as Corporations and Committees in England are, and then for the Board to delegate such authority as they might think fit. However, I do not go so far as that, but when we have a Board which is going to be a very select body, I think that the authority might be left with the Board, and I move to that extent, *i. e.*, the President shall delegate under the control of the Board, so that the Board should have a voice in this question of delegation, and such large powers should not be left entirely and absolutely in the hands of the President."

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN said:—

"Your Honour,—Under this clause, the President is authorised to delegate his own powers and duties to any officer of the Board. But it is desirable that the delegation of such important function should be done with the approval of the members of the Board. This would produce a salutary and wholesome effect, and, moreover, this will prevent the abuse of such a power; with this short remark I propose that the words 'subject to the control of the Board,' may be inserted after the word 'may,' in line 1 of clause 33 (*now 35, (1)*)."

The Hon'ble MR. WHEELER said:—

"I think no reasonable exception can be taken to the clause which is merely designed to expedite the transaction of business. The President's power

[*Mr. Apcar; Maulvi Saiyid Muhammad Fakhr-ud-din; Babu Deba Prasad Sarbadhikari; Mr. Wheeler; Rai Sheo Shankar Sahay Bahadur.*]

is not absolutely unrestricted, in so far as various important sections are set apart from delegation, and the principle of the clause is precisely the same as that of section 18 of the Calcutta Act, which, in the same way, allows the Chairman by general or special order to delegate to any municipal officers his powers other than those which are specially excepted in that clause. The Hon'ble Member appears to think that the Chairman may in some way subvert the functions of the Board by the delegation of some important powers, but he does not mention the powers to which he is referring. It is unnecessary that a section of this kind should attempt to specify the exact details of the future working of the Trust, and I do not think that any reasonable exception can be taken to the clause."

The Hon'ble MR. APCAR said:—

"I think, Sir, that the Hon'ble Member might have understood that I made no insidious suggestion. All I say is, that there is a Board, and I think that authority should centre in the Board."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

166. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "subject to the control of the Board" be inserted after the word "may", in line 1 of clause 33 (*now 35 (1)*).

167. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "(if any)", in line 3 of clause 33 (*now 35 (1)*), be omitted.

He said:—

"Sir,—It appears to me that these words 'if any' have no meaning or place at all These are redundant words which may go. However, I leave it to the discretion of the department."

The Hon'ble MR. WHEELER said:—

"We are advised that the words are scarcely redundant, and if they were omitted it might be said that the President would have to prescribe conditions and limitations in every case. The words might be retained."

The motion was then, by leave of the President, withdrawn.

Clause 35 (now 36).

168. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that for clause 35 (*now 36*) the following be substituted, namely:—

35. When an official representation, as hereinafter mentioned, is made to the Board that, within certain limits where this Act is in force, either—

(1) any buildings used, or intended or likely to be used, for human habitation are unfit for human habitation, or

(2) the narrowness, closeness and bad arrangement, or the bad condition, of the streets and buildings, or groups of buildings, within such limits, or the want of light, air, ventilation or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants, either of the buildings within the area of such limits, or of the neighbouring buildings;

and that the evils connected with such buildings and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets and buildings within such area, or of some such streets or buildings;

[*Rai Sheo Shankar Sahay Bahadur.*]

the Board shall take such representation into their consideration, and, if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect of such area;

and, after passing such resolution, they shall forthwith proceed to make a scheme for the improvement of such area.

He said:—

"This is an important clause. There are no less than 44 amendments on the list of business in connection with this clause. There is no doubt that this clause is of the most vital importance. If I may be permitted to say so, it is the most important clause in the whole Bill. It lays down rules as to when, why and wherefore an improvement scheme for the whole of Calcutta or any part of it can be framed by the Board. While it is necessary to give the Board ample powers to deal with the evil of insanitation, it is equally necessary to see that no arbitrary power is vested in the Board, causing inconvenience, hardship and loss to the residents. The Bill as introduced in the Council followed the Bombay Act except in one or two particulars. But as it has emerged from the Select Committee, changes of far-reaching character have been made.

"My submission is that we should follow the Bombay Improvement Act in this connection, and the amendment standing in my name follows the language of the Bombay Act almost word for word. It is significant, that in the Bombay Council, I find from the printed proceedings of that Council, that section 23, corresponding to clause 35 (*now 36*) of the present Bill, was passed without a division and no amendment was suggested by any of the members of the Council. I am not aware of the reason as to why the Bombay law, on which the present Bill is mainly based, is not adopted in this instance. In the report of the Select Committee we find at page 3, a statement that the wording of this clause has been modified so as to bring the procedure more definitely into accord with that prescribed in the corresponding sections of the English Act. I understand that the wording of this Bill is inconsistent with the English Act in important particulars But whether this is so or not, my submission is that we have not been told of any satisfactory reason as to why we should give up the Bombay Act and travel beyond the seas to find out a suitable procedure for our guidance.

"Now, comparing clause 35 (*now 36*) of our Bill with the corresponding section 23 of the Bombay Act, I hope it will be conceded that, so far as the language is concerned, the Bombay Act has an advantage over our Bill. Our clause is very loosely worded: for instance, if the Board is authorized to act either on official representation or on its own initiative, the words 'whether upon an official representation made under clause 36 (*now 37*) or without such representation,' in paragraph 1 of the clause, seem to be wholly unnecessary. It would have been sufficient to say, 'whenever it appears to the Board, etc., etc.'

"Then the paraphrase or splitting up of sub-section (*2*) of the Bombay Act into clause (*b*) and its three sub-clauses in the present Bill, hardly seem to have improved matters.

"Coming to the substantial changes made in this clause of the Bill, it appears that our Bill varies considerably from the principles of the Bombay Act. I shall briefly indicate them here.

"In the first place, while in the Bombay Act the Board can take action only on official representation, here the Board can act irrespective of such representation. Secondly, our clause provides that if a general improvement scheme is the most satisfactory method of dealing with the evils, action can be taken, whereas the Bombay Act provides that action can only be taken if the defect cannot be effectually remedied otherwise than by an improvement scheme. Thirdly, our clause does not provide that the Board has to be satisfied of the truth of the representation as the Bombay Act provides. Fourthly, there is not a word in our Bill as to the Board being satisfied of the sufficiency of its

own sources before framing any scheme. The Bombay Act makes it a condition precedent to the framing of a general improvement scheme by the Board. Fifthly, clause 35 (*now 36* does not make it obligatory on the Board to pass a resolution and frame a scheme if all these conditions exist, but simply gives it discretionary power to do so or not, as it may choose. The Bombay Act, on the contrary, provides that if these conditions subsist, the Board shall be bound to frame a scheme.

"I shall briefly deal with these differences of principles between the Bombay Act and our own, one by one.

"Firstly, here the Board is authorized to act on its own initiative without an official representation. This means larger and more extensive powers to the Board. May I ask what machinery the Board will have to enable it to take the initiative? There is no indication of any such machinery at least in the Bill. Is it not necessary that the Board should move only on the representation of some responsible body or person, who have knowledge of the conditions of Calcutta? But no; the Board must be clothed with extensive powers and, therefore, it is necessary that they may take action on their own initiative.

"The second point of difference between the Bombay Act and our Bill is still more astounding. In Bombay, the general improvement scheme can only be made if there is no other effectual way of dealing with the evil; here the improvement scheme may be made if it is the most satisfactory method of dealing with the evil. There is a good deal of difference between the two. In the one case, that is at Bombay, the general scheme will be adopted as a last resort where all other remedies fail. Here the general scheme will be adopted perhaps in each and every case. For who can deny that a general improvement scheme will in all cases be the best method of dealing with the evil? Demolish all the houses, widen all the streets, and start a new city altogether,—a beautiful city, of course, and deal with the evil for good and for ever. This will certainly be 'the most satisfactory method.' But that is not what is wanted. You have to take things as they are. If there be no other effective method of dealing with the evil, make a general improvement scheme by all means; but do not empower this body with absolute powers to make a scheme if and when such body choose to do so.

"The third point of difference is that, while the Bombay Act lays down that the Board must be satisfied of the truth of the representation, the present clause does away with it altogether. Of course, this is in consonance with the nature of the power intended to be bestowed on the Board. They need not take the trouble to satisfy themselves with anything; they need not make any inquiry; they need not act on the representation of any person; they must have absolute and arbitrary powers, unfettered by any restrictions. The next point of difference is that, while the Bombay Act lays down that the Board must be satisfied as to its resources before taking any action, our Board need not be hampered with any such considerations. They must be free. Whether they have funds or not, they have the discretion to frame a scheme all the same and leave the taxpayers to find out the funds.

"Fifthly, while in Bombay the Board is bound to make a scheme when all these conditions exists, here it is optional with the Board to make a scheme, or not, even if the condition of any part of the town is very bad. Truly, this is also in consonance with the general tenor of the clause. An autocrat must not be told by the legislature that he shall do this or that. He must be told with all due deference that he has the power, but he is not bound to do it.

"Sir, I have sufficiently indicated that the changes that have been made in this Bill, as compared with the Bombay Act, have all the tendency to clothe the Board with absolute and arbitrary powers, unfettered by any consideration, however weighty it may be. I submit it is hardly fair, and the Council, I hope, will not allow this clause to be passed without material alterations.

"My suggestion is to follow the Bombay Act. We have heard it mentioned off and on that what is good for Bombay is good for Calcutta. All right. If it is so, then why not adopt section 23 of the Bombay Act in this connection in its entirety—why do away with the conditions and restrictions that are in force in Bombay?"

The Hon'ble MR. BOMPAS said:—

"Sir—The fact that there are forty amendments to this clause will draw the attention of the Council to the fact that it is one of the important clauses of the Bill. Up to the present, this morning we have been considering the details of the manner in which the Trust is to carry on its duties. We now come to a certain clause which lays down the work which the Trust is to perform. The Hon'ble Member in moving that his clause should be inserted in the Bill in the form in which it exists in the Bombay Act, has raised six questions which are all covered in greater detail by amendments which are on the paper and which are to be subsequently considered. I will therefore content myself on this omnibus amendment with giving the general arguments which I think justify the general shape which the clause has taken in the Bill, and I will go into greater details when the more detailed amendments are moved.

"There is first the most important difference between the clause in the Calcutta Bill and that in the Bombay Act. By the clause, as it stands in the Calcutta Bill, the Trust will have power to take action in regard to insanitary areas and to prepare general improvement schemes for such areas without receiving an official representation. Although I anticipate that there will be considerable discussion on this provision, yet it seems to me one of the most trifling importance. For we must consider the work that has been performed by the Bombay Trust and the work which is to be performed by the Calcutta Improvement Trust. Calcutta is suffering from two maladies: it is cramped, and there are no means of access to suburbs There are no channels for the circulation of the population. One of the principal works of the Trust will be to remedy that evil and to provide a cure for that malady. The Trust is to provide main thoroughfares which will render rapid transit possible, and will enable the population to spread over a greater area than it occupies at present, thereby removing congestion and overcrowding. But besides these, there are certain plague-spots, certain unhealthy areas which need to be excised, and clause 35 (*now 36*) is the clause which gives the Trust the power to deal with the areas in which insanitary conditions exist in an aggravated form. No one has suggested that the Trust should be debarred from taking action under clause 38 (*now 39*), which is the clause which enables it to prepare street schemes without receiving any official representation. For is not there a corresponding power in section 30 of the Bombay Act, which is the section that enables the Bombay Trust to prepare street schemes? Street schemes that have been prepared in Bombay—for instance, Princess Street and Sandhurst Road—have, of course, been works of greater magnitude than any of the useful improvement schemes which that Trust had carried into effect with respect to insanitary areas on receipt of official representation. I do not think, therefore, that any one can apprehend that excessive power is rashly put into the hards of the Trust, because, as the clause stands, the Trust may undertake any scheme without official representation. If the Trust can run a hundred feet road, say, from Bagbazar to Chowringhee, without any official representation or application from any one, surely there is no very special or insidious danger in giving the Trust the power of making improvements in small areas, the sanitary conditions of which are deplorable. It is true that the Bombay Act provides for official representation as being necessary before the Trust can take up small and minor schemes of improvement, but surely the objects of the clause and the corresponding clause in the English Act, as well as of the clause standing in this Bill, are not to restrain the Trust from doing any work. The whole object of that legislation is to compel dilatory public bodies to take action in certain cases. It is a very valuable power. The Bombay Trust had no staff, when it started work, who were acquainted with the sanitary condition of Bombay, as the Corporation was with its staff of health officers

and sanitary officers. It was therefore quite right and natural that the Corporation should have power to bring to the notice of the Trust insanitary conditions in certain areas and should have the power to insist on a remedy being applied. It is, on the other hand, clear that that there will be no authority so competent as the Calcutta Trust to deal with the greater schemes of rapid transit, and development of building areas which will deal with Calcutta and its suburbs as a whole. There is no other one authority which covers the whole area. This is the reason why no official representation is called for in such cases. But in regard to unhealthy areas regarding which the Calcutta Corporation has the best means of information, the Corporation will have power to make official representations, and if it rejects them, the Trust will have to give reasons for such rejection. I cannot conceive what harm there is in allowing the Trust this power, when it would in any case be open to the Trust under clause 38 (*now 39*) to call any work an improvement scheme and carry it out.

"The Hon'ble Member takes exception to the words 'most satisfactory method of dealing with evils,' and asks that we should adopt the wording of the English law as it is reproduced in the Bombay Act The English law has been amended since the Bombay Act was passed, and we, following the English examples, have adopted the words which now stand in the English law. There is clearly good reason for a change. It is obviously difficult to say that the evils connected with an insanitary area cannot be effectually remedied except by an improvement scheme. A general conflagration, for instance, might be a very effectual remedy. The words, as they stand, seem to me to express exactly what the duties of the Trust will be. Before proceeding to frame a general improvement scheme, the Trust is to be satisfied that the conditions of the area are seriously insanitary, that a general reconsideration is necessary, and that the work is beyond the capacity of individual owners.

"Then the Hon'ble Member suggests that the Trust, after receiving the official representation, shall pass a resolution and proceed to make an improvement scheme. That he will find provided for in the subsequent clauses of the Bill which lay down the duty of the Trust in respect of official representations. It is true that in this clause there is no specific mention that the Trust must be satisfied as to the sufficiency of its funds. But it is, of course, understood that the Trust will not undertake to prepare of its own motion any general improvement scheme, unless it is satisfied that it has means to carry it out It will, of course, also inform the Corporation if, for want of funds, it rejects any of their official representations. It is also true that this clause does not provide that it is obligatory for the Board to pass a resolution when an improvement scheme is to be prepared. But it is provided for in the subsequent clauses dealing with official representations. It will have to give its reasons to the Corporation if it rejects its representation, and the Trust cannot do that unless the Trustees are satisfied as to the reasons of such rejection.

"This is my general answer to this general amendment proposed by the Hon'ble Rai Sheo Shankar Sahay Bahadur. I cannot recommend the Council to accept it. The Bombay Act refers to a condition of affairs which does not exist here. For one thing, it was right that the Bombay Corporation should have a large voice in the Bombay Trust, for it was paying for the whole work of the Trust with the exception of such profits as the Trust was able to make by developing certain Government lands. Seeing, therefore, that the Corporation was paying the piper, it was very natural that it should have a large power for calling the tune. But, as I pointed out, it is only in cases of houses and buildings that the Trust has no discretion. In all other respects it has an absolute and unfettered discretion. And what is the official representation in Bombay? The following have the power to make official representations in Bombay:—First, the Commissioner, who is an officer appointed by Government; secondly, the Municipal Health Officer; thirdly, the Justices of the Peace; and fourthly, 12 or more persons residing in a ward, and all except the first must do it through the Commissioner. These are very large powers, and it was to the interest of the public that, if some plague-spots were to be removed and wiped away, there have been no difficulties in getting official representations. I do not suppose that the debate on this

clause will be finished if this amendment is rejected. But this amendment ought to be rejected, because a considerable part of it is obsolete or relates to a state of affairs which exists in Bombay, but which does not exist in Calcutta."

The Hon'ble MR. APCAR said:—

"Your Honour?—We have only just now heard the first explanation or declaration of the policy on the part of Government in connection with this Bill. There was a statement made at the first reading by the Hon'ble Member who introduced the Bill. It was clear with regard to the finances but bare in other respects. But if the principles upon which the Government were going to proceed had been indicated, when the Bill was referred to the Select Committee, which answers to the second reading of a Bill, in the House of Commons, when the principles of a Bill are discussed, it would have been a very great advantage indeed. It would have helped me to try to shape this Bill on altogether different lines. It is now the first occasion we have heard this idea of action to be taken under clause 35 (*now 36*) minimised in the way we now hear, and that the whole effort is really to be in connection with street schemes: that makes a very great difference in the whole scope of action that is to be undertaken, but how does it compare with the powers that have been reserved under clause 35 (*now 36*)?

"It is in consequence of the very wide powers, conferred under that clause, that anxiety has been created. Before, we used to hear of the plague-spots of Calcutta and the necessity of having those cleared away. And also in communications, such as have been available to us from the Government of India to the Secretary of State, there has been stress laid on the action that has to be taken in order to have large clearances made. But now we are told that the Board will operate on a small scale only on such schemes.

"Sir, the Hon'ble Member has reserved his remarks for a later occasion to discuss in detail the various points embraced in this amendment, and it is not difficult to foresee what the result of this amendment will be, when such a declaration is made on behalf of the Government. The Bombay Act is closely modelled on the English Act, and this present clause is very widely different from the Bombay Act and consequently from the English Act. What we now are really endeavouring to do is to assimilate our procedure to the English Act.

"In my anxiety to submit material readily available, I have ventured, in anticipation of our meeting in Council to day, to publish a statement that will enable Hon'ble Members as well to grasp the scope of the section of the English Statute on which this clause purports to be modelled, as to follow the comparisons with the English law, which I think is essential to understand the amendments which are proposed to this clause.

"I can safely say, so far as that statement has gone, that it is a strictly accurate presentment of the conditions which prevail in England on the questions in issue. And I appeal to you, Sir, whether I could show greater confidence in the propriety of our proposals, than that I should ask that those proposals should be thoroughly well understood and tested, in comparison with the English law, from which our inspiration for this Bill is drawn.

'The wording of this clause has been modified so as to bring the procedure more definitely into accord with that prescribed in the corresponding sections of the English Acts.'

"These words are taken from the Select Committee's Report, and I invite Hon'ble Members to see how far the standard that Committee has set up has been reached.

"At the outset I venture to ask attention to section 4 of the Housing Act of 1890, which I have set out in my statement already before the Council. It will be seen, that under English law, local authorities carry that Act into effect,—a local authority meaning, in general terms, the Corporation charged with the municipal administration of the locality in which the area proposed to be dealt with is situated. They are permitted to entertain a question of an unhealthy

area, only if an official representation is received for that purpose, which means, as I have explained in my statement already published, that expert medical opinion in its support is a condition precedent to the consideration by the local authority of the question whether or not an area is an unhealthy area; the area, be it noted, being a 'certain' area, or, as it appears in the Bombay Act, an area 'within certain limits' in the City. And consequent upon that issue, whether an improvement scheme should be framed.

"We find also a mandate to the local authority that they shall consider such official representation, and in the first instance satisfy themselves of its truth and of the sufficiency of their resources, and if they are so satisfied, then they must proceed to an improvement scheme. And the instructions that are given with regard to their future conduct, are equally peremptory. This is the procedure in England. It would be difficult to see a likeness to any of the clauses of this Bill. And our aim is nothing more outrageous than to assimilate our clauses to the English law.

"This Bill, similar to the law in England, attacks private rights in an extraordinary degree. It gives power to depopulate a large area, and to dispossess owners of land in that area. I by no means desire to impugn the policy of the Bill in that respect, a policy with which I entirely agree. I only seek an examination of the conditions under which effect should be given to that policy.

"The Hon'ble Member's amendment proposes no new matter. So far as it goes, it is taken, as I have indicated, bodily from the Bombay Act. If it is accepted, I shall be content. If, however, it is not desired to substitute this section of the Bombay Act in its entirety, we shall endeavour to adapt the clause in the Bill, as it stands, to the English law. Our aim is exactly the same as that expressed in the Select Committee's Report, 'to bring the procedure more definitely into accord with that prescribed in the corresponding sections of the English Acts.'

"Sir, if official representations are not required for such matters owing to the trifling character of the Board's operations, then my labours in the latter stage of this discussion will be lightened, because there is not the same intention apparently for the adoption of these large clearance schemes, as we were led to believe.

"If that is so, I do not understand, as I before have said, why such very wide powers have been reserved. I will not now speak further on the question, as we have been promised a more detailed discussion later, but I have thought it necessary to make these observations at once with reference to what has been proposed."

A division was then taken, with the following result :—

Ayes 18.	*Noes 30.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. R. T. Greer, C.S.I.
	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Maharaja Manindra Chandra Nandi	The Hon'ble Mr. E. W. Collin.
	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. E. P. Chapman.
	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. H. Wheeler, C.I.E.
	The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. S. L. Maddox.
	The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Mr. K. B Dutt.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Mr. M S. Das, C.I.E.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

The Hon'ble Mr. G. W. Küchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din

The Hon'ble Mr. T. R. Filgate.

The Hon'ble Babu Mahendra Nath Ray.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes 15, noes 30, and the motion was therefore lost.

169. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din moved that the words "Upon the Board being satisfied, on due and proper inquiry" be substituted for the words "Whenever it appears to the Board", in line 1 of clause 35 (*now 36*).

He said :—

"Your Honour,—The amendment which I now propose to move is, though simple, yet very important. I wish to substitute the words 'Upon the Board being satisfied on due and proper inquiry' in place of 'Whenever it appears to the Board.' The clause, as it now stands, gives a very wide power to the Board without any restriction, limitation, or reservation.

"Before the Board takes any action to declare any particular locality or area as unhealthy, the Board should be satisfied, after making due and proper inquiry, whether, as a matter of fact, such conditions as are laid down in sub-clauses (*a*) and (*b*) do or do not exist. This restriction is more necessary because power has been given to the Board to take action under clause 35 (*now 36*), even without any official representation. The word 'appears', in line 1 of clause 35 (*now 36*), does not necessarily indicate the idea of making previous inquiry, and if the intention of the legislators be that the Board will have to make an inquiry and will have to be satisfied before taking an action under this clause, then why do you not express that intention in express words? I do not think that any harm will be done by the amendment. Under the Bombay Act the Board has got a right to take similar action only upon official representation, but under the present Bill the Board is going to get wider and more extensive powers, and therefore it is necessary to safeguard against the abuse of power of taking action without first being satisfied of the necessity of such action Hence I would propose that the words 'upon the Board being satisfied on due and proper inquiry' be substituted for the words 'whenever it appears to the Board' in line 1 of clause 35 (*now 36*)."

[*Mr. Bompas; Mr. Apcar; the President.*]

The Hon'ble MR. BOMPAS said:—

"Sir,—I cannot recommend this amendment to be accepted. The Hon'ble Member says that it does no harm, but I submit that the burden of proof is on him to show that it does good. The Board will surely not undertake any work without due and proper inquiry. I believe you will gain nothing by putting in these words."

The Hon'ble MR. APCAR said:—

"Your Honour sees how matters stand here. There is now a group of amendments for 'a due and proper inquiry.' Then there is a group of amendments to omit 'without such representation'; then comes my amendment which includes 'due and proper inquiry', and also the omission of 'without such representation', with a third element in it, which is not in any of these, that it should be 'within a certain area only'. The first of these amendments is 'upon the Board being satisfied, on due and proper inquiry.' I do not know, Sir, whether I may follow afterwards, on my own amendments, because we are taking my amendments in detail but omitting the third head of my amendment. My three amendments are:—'due and proper inquiry', 'omission of the proper representation', and the third one 'within a certain area only'."

The PRESIDENT said:—

"I think the Hon'ble Mr. Apcar desires that it would be considered as a whole, even though the various parts have been negatived."

The Hon'ble MR. APCAR said:—

"What I propose to do, Sir, is that, inasmuch as these two groups of amendments are included in mine, to deal with them separately as they come up. Now, with regard to this 'due and proper inquiry', it may be convenient to Your Honour and the Council to take them separately in that way, because I do not agree that this question, as has been suggested by the Hon'ble Member in charge, is of no moment. I submit that it is positively necessary, for reasons I shall state, that it would be a harmful thing for us if this broad question of 'due and proper inquiry' was not included as a direction of law in the Bill itself. I am afraid I am not ready yet to accept the light air with which Hon'ble Member in charge treats this question. On the contrary, I think that this is a serious matter of great importance. The term 'Improvement Scheme' has now obtained a definite and recognised meaning, if not a technical meaning. All the books that we have at our hands, that refer to the subject of 'Improvement Scheme', refer to it as large schemes. There are other schemes in which other methods are employed of a less drastic nature, but none of these can be used under this Bill. Therefore, when there are such great powers included in this Bill in connection with these Improvement Schemes, and there is no alternative allowed, then, Sir, we should be wanting in proper appreciation of our duty if we do not treat this matter seriously.

"This clause will introduce a law which is strange to us and, in my humble judgment, is the most important in the Bill. We now are discussing an amendment, and we are approaching the discussion of other amendments of the highest importance. And the fate of Calcutta will depend on the spirit in which these amendments will be considered by the Government representatives. It will now be decided whether we shall take proper advantage of the careful investigation that was started in England so far back as in the year 1842, and the experience that has been collected by men who have become experts in the question, out of which has been evolved the present law in England; or, we are to plunge into a law for which we have no authority and no precedent. The Government representatives will not, I trust, fail to appreciate that there is criticism which is the outcome of conviction and is the honest contribution of those who have a common object in view, and the desire to secure in the best possible way the common end, and will not class it all as dictated by an endeavour to grasp sordid gain or dictated by political rancour.

"I confidently can say that the amendments that are before us will not in any degree destroy the efficacy or the stringency of the law in its operation. On the contrary, they will improve the Act. I submit not only that the proposals are fair, but I go further to say that it would be unfair if action were permitted to be taken contrary to the principles of those proposals and in accordance with all that would be permissible under the clause in its present form. I crave the indulgence of Hon'ble Members in my endeavour to deal with these amendments, as they come up for discussion, with the close attention which I think the circumstances demand. The consequences, if this clause is passed as it stands, will, I am convinced, be so grave and unexpected that I earnestly ask Your Honour and this Council seriously to consider what I have to say, because it is my belief that the difficulties to which I shall refer have not been realised.

"It has been forcibly represented to me by citizens of Calcutta, who have a knowledge of public affairs and who are familiar in what manner public business should be conducted, that the Board will transact their business with closed doors. We do not know who the Trustees will be, and what will be the conception of the majority of them as to the conduct of public business; or how they will perform their duties. I think there is substance in these representations, and I take the responsibility of submitting them to this Council.

"I venture to urge that it would be advisable to enact express direction that the Board shall make due and proper inquiry. If for no other reason, let me urge that it be inserted, as, at least, an ever-present guide, to remind all the members of the Board of what is necessary in their conduct of proceedings.

"And if it is intended or assumed that there shall be a proper inquiry, as I hope is the case, by all the Hon'ble Members of the Council, then, Sir, what objection can there be to express such intention? It would be only in the order of things—and my honourable and learned friend, I feel sure, will agree—to express in words the intention of the legislature, because whatever our assumptions are, whatever our *á priori* explanations of our meaning of a section, when a certain intention is not expressed, then it may be taken as if that intention did not exist. I, of course, am aware of the contention that the Board of Trustees will be so constituted and so select that they may be relied upon to conduct their proceedings on strictly correct principles. But, I submit, legislation on a subject such as is before us should not proceed on these lines. It might be said, certainly with no less reason, that the Corporations in England and the Local Government Board might be depended upon to act properly; yet we have seen in our present discussions, express instructions of an imperative nature to control their proceedings and actions have been found necessary by the British Parliament to be included in their Statutes. It is important always to bear in mind that, although enormously increased powers have been extended to the Local Government Board, there has never been any wavering in the policy of controlling and directing that body, by express statutory enactment, in questions leading up to a declaration of an unhealthy area, and by so much as the increase of powers in other directions has been extended, there is a corresponding degree of emphasis in the obligations created by Statute being continued in connection with all questions relating to an unhealthy area. It can hardly therefore be deemed derogatory or unnecessary to insert in this clause that the Improvement Board shall make due and proper inquiry in respect of the question now in issue.

"To give extensive powers to and then to depend on the individuals who may constitute a statutory body to do all that is right and proper, and regard express directions and instructions for procedure as superfluous, is an alluring theory but dangerous to put into practice. Actual experience has shown that, given a carefully constituted body and even express instructions to make due inquiry, there has been failure. I will give one instance. The General Committee of the Calcutta Corporation was conceived to form, under the present Municipal Act, a co-ordinate authority in the municipality, to whom

large powers were to be transferred from the Corporation who were exercising them. There was every incentive to Government, in order to vindicate their policy and justify the revolutionary changes that were contemplated, to devise a most highly efficient working executive body, and they had free scope in modelling the General Committee.

"They gave us a specially selected Government officer as President, a carefully chosen group of four members to be appointed by the Government, four other members to be elected by Government nominees, and those returned as commissioners by constituents such as the Port Trust, Chamber of Commerce and Trades Association, with only four representatives of the humble ward commissioners, who therefore were in a standing minority of nine to four. I shall not go through a catalogue of the doings of the General Committee, but confine myself to an illustration of one class of cases only, which is strictly in point in the present issue. Under section 441 of the Municipal Act, it is expressly directed that they shall take action after due inquiry. Nevertheless, even with the express direction for due inquiry, such inquiry has been omitted, as will appear in reported cases in our Law Reports: how many others there may be, I know not. It must not be supposed that I aim at an object so fantastic as, by legislation, to confer a perfect discretion on any body of persons, failing which they will be liable in a court of law. Whether the Board will exercise their discretion rightly or wrongly is a question apart. The words I seek to insert will not affect any such issue. If only the Board exercise their discretion, that is all that will be wanted, and no court of law would intervene But I submit that we may fairly and urgently press that there shall be included a provision of an imperative character to impose an obligation on the Board to make proper inquiry before proceeding to frame an improvement scheme. If, after they have duly considered the question, they decide in favour of it, my amendment will not give the public any right to appeal to the Law Courts. If, on the other hand, they in fact have neglected to conform to a course of conduct that, we must all admit, obviously is right and proper, then and then only will the public have an opportunity of redress from the court, which, without the provision I seek to include, they would be without; and a peremptory direction to consider the question is not unknown in the Bill itself. It is found in clause 37 (*now 38*), but it does not improve the position of difficulty to which I am drawing attention.

"In that clause we have the direction that the Board shall consider every official representation made to them—but with what intent? To decide, after a declaration has been made that an area is an unhealthy area, whether a general improvement scheme shall be framed forthwith or not. The point for consideration then appears to be, at what period of time an improvement scheme is to be framed, whether forthwith or not.

"And it is interesting to observe that in the original Bill, as referred to the Select Committee, the Board was expressly required, before taking any action, to be satisfied as to the truth of such representation and as to the sufficiency of the resources to carry it into effect—a provision, Your Honour will recall, taken verbatim from the English Statute, and this also had reference only to an official representation. It has completely disappeared from the Bill. It leads to the supposition that the original scope of the Bill was to allow only official representations, and the additions that now are included may have been made without careful examination of the various questions that are involved. Whatever the causes, the result is that there are directions with regard to one issue, which are omitted with regard to others so closely connected with it as to give ground for serious argument that the Board are free from all obligations to inquire or consider, in all questions in this connection, any matter other than where there has been an official representation. And it may be argued that it indicates a policy of uncontrolled action, intended to be conferred on the Board, which I hope and believe is not our real intention. Omissions and variations of words frequently have, as I am confident my honourable and learned friend will bear me out, a result never anticipated by the legislature.

[*Babu Bhupendra Nath Basu; Mr. Bompas.*]

"Sir, I think that this is a question of the greatest importance, and if there is an intention to make 'due and proper inquiry', as there is in England, that matter shall be considered, I submit to Your Honour and this Council that the insertion of these terms is necessary, and that the amendment should be accepted."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—In the first place, we have in the present scheme done away with official representation. My hon'ble friend, the Member in charge of the Bill says that it has been so done for a very definite and clear purpose, namely, that it may be necessary for the Trustees themselves to take action, and they could not very well take action if they had to wait until an official representation was made to them. Then there is one consideration which my friend seems to omit in this connection. When an official representation is made, it is not a representation for improvement which emanates from the Trustees themselves."

The Hon'ble MR BOMPAS said:—

"May I rise to a point of order, Sir? I submit it is very desirable that we should confine our observations to the amendment before us. It seems unwise to divert the attention of the Council to Town Planning schemes. It has got nothing to do with Improvement Schemes."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I was trying to show the necessity of this clause by putting before the Council when the other safeguards have now been taken away. One of the safeguards is that the Board should be moved only upon the representation of the third party. If the Board proceeds of its own motion, where is the body which will protect the people from the Board? In England, when a Town Planning scheme is framed, if there is any objection it has to get the sanction of Parliament. If my friend will look at page 229 of Allan's Book on Housing, he will see the whole procedure is laid down there.

"But, as I say, your Bill is so framed that it is such a beautiful jumble of various things that you cannot distinguish one part of the scheme from another. I throw the challenge directly and boldly that, in Chapter III, you have in your excessive zeal for importing into Calcutta all the latest measures of legislation in England about matters of town planning, confounded and confused the whole procedure and made such a wonderful and beautiful jumble that not only I was unable to extract any sense out of it, but I laid your proposals before the highest experts in England, and they were simply aghast to find that this is the way things are done in India. My hon'ble friend says that it is not town planning; then what is it, when you are driving a road from Bara Bazar to Chitpur in order to give relief to congested areas? What is it when you are opening squares in thickly populated *bustees*? It is not only that you are dealing with insanitary areas, but you are dealing with the question of town planning and of the housing of the poor; and here you have not only the housing of the poor but also of the persons displaced. You are going to provide for the housing of the people generally, so that in Chapter III you have got improvements of insanitary *bustees*, you have got town planning, you have got housing of the poor, all these you have put down under one Chapter, which makes it excessively difficult to say as to what procedure would actually be adopted when these things come on, and thereby you have obscured the real issues. In England compensation and other things are not allowed under certain conditions. They treat these questions separately. Here all these questions are treated together and remedies which ought to apply are being applied to all the parts, and, therefore, we say that having done away with all the safeguards which are considered necessary and essential even in your own country in England,—where people are much better able to protect their own rights and where these things are put into operation by men who have made a special

study of the subject, men who are experienced and well trained in these matters, whose judgment always commands confidence, who know how to deal with men and things, where amongst the homogeneous population there is no divergence between those who are affected and those who have got the carrying out of these operations,—they have thought fit and desirable to provide safeguards against the abuse of powers. Here what is the safeguard that you have provided? You yourself conceive that a scheme should be framed. You publish that scheme, you call for objections and you yourself decide. Well, I know that there is a strong feeling in India that one who starts the prosecution should carry it out and should see the man accused, convicted and put in jail. But I believe this is a feeling which is not very generally shared. I ask you if you say that you want to work this Act in a spirit which will command public confidence, what is the procedure that you will follow that will command public confidence? Supposing, I say, that there is a large scheme which ought not to be carried through, then who is to decide? You decide. If it were the Corporation which started it and it came to you, well, then, you would decide between me and the Corporation. Who is to decide between you and me? You will decide. Well, that may be your idea of fairness, but it is not anywhere else outside this Council Chamber. Therefore, we say that before we do things we must lay down the statutory injunction that it should be properly and carefully made. You have excluded from your body, deliberately and wilfully, men who will be seriously affected by your operations, because you say they are in the position of accused persons on their trial, and you yourself are formulating these schemes and you decide them. Do you mean to say that the statutory obligation of having due and proper inquiry will be followed? Well, gentlemen, there are certain limitations which a sense of duty imposes upon men who have got to do certain work, but you know that in the past—I speak with no sense of disparagement—in the history of your own service, there have been cases where eminent persons have abused their powers. We know that even in the present day the High Court daily interferes in the interests of persons who come before it, where the personal *zid* of the officer is likely to override the provisions of the law. You cannot deny that, and, therefore, what is there to prevent an abuse of authority—not only an abuse but, I say, a negligent use of authority? Why should you object to due and proper inquiry? You have, as I said, done away with all safeguards which prevail in other countries. Therefore, I feel it my duty to support this amendment."

The Hon'ble Mr. Wheeler said:—

"Possibly, owing to the fact that there are a number of amendments to this Chapter, the discussion tends to roam somewhat promiscuously over clauses which are in no sense at present before the Council, and I do not propose to follow the Hon'ble Member in his disquisitions on parts of this chapter with which the Council is not now concerned, or on matters which are not even remotely concerned with the improvement of Calcutta. The amendment is that the words 'upon the Board being satisfied, on due and proper inquiry' be substituted for the words, 'whenever it appears to the Board', and the point is whether it is necessary to safeguard the Act by that insertion. The Hon'ble Mover, as I understand, more or less says that it would not make much difference one way or the other, and the only concrete example that the Hon'ble Mr. Apcar has given shows that the insertion of the words had not the slightest effect in restraining the overbearing conduct of the General Committee of the Corporation. I, therefore, submit, Sir, that that supports the argument put forward by the Hon'ble Mr. Bompas, that these words are in no sense necessary. All these provisions which safeguard the interests of the public, occur at a later stage, when an Improvement Scheme has been framed—*vide* clause 42 (*now 43*)—and under clause 46 (*now 47*) the whole matter finally comes before the Local Government who then again considers it. This should be sufficient to prevent any undesirable scheme going through, and I would oppose this amendment on the ground that it is unnecessary."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Your Honour,—I desire to associate myself with the Hon'ble Mover of the amendment now before the Council. What has just fallen from the Hon'ble Mr. Wheeler would be reason enough for adopting the amendment if others were wanting. We have the fact and the phenomenon that, although safeguarding words like those that we seek to introduce in this Bill are present in the Municipal Act, they have committed an irregularity to which the Hon'ble Mr. Apear has referred, and have committed it with impunity. If cases of commission with impunity were multiplied, as have no doubt they could be on proper inquiry, would the case for the insertion of a safeguard like this be strengthened or weakened? If, with the existence of words like these on the statute Book, an omission like this is possible, let us imagine for one moment what would be the state of things without it. We have been told by the Hon'ble Mr. Bompas that if a body constituted like this was to do anything without what to them appeared to be due and proper inquiry, they would be hardly worth having. I am not following the Hon'ble Member exactly in his own phraseology, but that is what it comes to in effect. He would leave it to their good sense and discretion. Sir, good sense and discretion do not happen to be a monopoly of Boards like that which is to be constituted under the clauses that we have already carried in this Council. Eloquent reference has been made by the Hon'ble Babu Bhupendra Nath Basu to cases where, in spite of such safeguards, good sense and discretion have been wanting—it may not be very often but painfully often enough. Those from whom we are borrowing these provisions on a somewhat unscientific and irregular method to suit our present purposes, may be credited with some of that good sense and discretion. We are, therefore, entitled to refer more at length than has been done already to those sections in the English Act, which are the basis and foundation of the present clauses. Reference has been made to section 4 of the Housing Act of 1890. My hon'ble friend has read from a book of Allan, an authority on this question, showing exactly how the matter stands in England, and if I may refer to another standard work of the same author, in which he comments on and summarises some of the sections of this now well known Act, we find his comments on this section as follows :—

> 'Sections 4 and 5 provide that, where an official representation is made by a Medical Officer of Health that certain areas are unhealthy and that an Improvement Scheme should be made, the local authority shall, *if satisfied by the fact*, proceed to make such a scheme.'

"Great stress has deservedly been put upon the clauses that the local authority, if satisfied of the fact, will proceed to make such a scheme. I need not trouble the Council with regard to other extraneous matters which this commentary reviews, but the comment proceeds to say that, if the local authority do not make such a scheme, they must send the notification to the Local Government Board, which is the confirming authority, and which may direct a local medical officer to inquire. Something analogous to that is now provided for later on in our Act, and the local confirming authority, which is the Local Government Board in England, would be here the Local Government, I take it. Then it says that if a representation affects more than 10 houses, the matter is to be treated under a different section. If we refer to section 8 of the same Act, to which reference has not yet been made, we find that, after receiving the report made upon such inquiry, the confirming authority may make a provisional order declaring the area comprised in a scheme and authorising such a scheme to be carried into execution. Now, we have the inquiry, and we have the report when the matter comes up before the confirming authority. Those would be materials exactly upon which they could invoke the powers that the statute is going to endow it with. If there is no inquiry, statutory I may say, which would furnish materials upon which the subsequent action of the confirming authority would proceed, how are they to proceed at all? Excepting the report of the local authority, which would be the Trustees in this case, what would there be to show that a certain thing appears to them in the wording of the clause

that we are now criticising? Sir, it is a truism that bad law makes bad administration. We have been repeatedly told that, unless an intention is clearly expressed or is it to be expressed by implication, it cannot be insisted on; that is a reason why we are anxious that the materials upon which the Trustees are to express their satisfaction that a certain scheme is necessary, should be available for the purposes of the confirming authorities, and that would be impossible unless there is a statutory insistence that there should be due and proper inquiry. Supposing there was need, as I hope and trust, there will be, in connection with the Trust Act at all events, to take the municipality before the proper Court which, in spite of the words in the Statute Book, did not do the right thing, what would be the result in the absence of the provision for that due and proper inquiry? Its absence would at once nullify that particular scheme, and it would be clear ground for interference, both by the confirming authority as well as by the Courts whose jurisdiction no Improvement Bill will take away under any circumstances. The belief is that the state of things with regard to the lower executive is so poor in this country that those responsible for the Act do not like to leave things to chance. There is nothing singular in this, nor is the phenomenon confined to this country. It was emphasised in St Stephen when the Working Men's Housing Act was passing through Parliament. One of the Hon'ble Members speaking on the Bill had occasion to say: 'It frequently happens in this country that those who are the first men to start an inquiry under the Acts were the very persons who were largely interested in the maintenance of the Statute. We have observed that in the Bill, before the local authority could act, an official representation had to be made. A man who probably owed his position in the way of personal or private practice among the people, would find it to be his duty as the medical officer to make the representation as to the insanitary condition of any property, however may be his lucrative practice among the people who might be owners of property over whom he ought to be able to exercise some control and which he may be called upon to condemn. There ought to be some provision for putting the law into operation, whether the medical officer of health did his duty or not.' Another Hon'ble Member said on the same occasion that it was doubtful whether the medical officer of a district or county, singly or generally, would be able to take necessary information in some cases. He therefore suggested that there should be power to obtain a report from independent persons appointed by the Local Government Board. 'These are not matters with which we are concerned for our present purposes, and some of these have no doubt been provided in the Bill or will be provided. What I have read may be taken as admitting a part of my argument so far as the case for dealing with those who are vitally interested in that inquiry, and the argument stands. You could not rely upon those that are directly and intimately connected with the carrying out of their Trust, whether the reports be from your own officers or reports of officers upon which you think you can act. Sections 4 and 8 insisted not only upon an official representation, about which there are other amendments, and I shall not mix them up with the question of due and proper inquiry, whether by independent people or by people connected with the local authority or by the Local Government Board, which have been throughout insisted on in the English Acts, upon the model of which we are supposed to be proceeding to-day. In this state of things I feel bound to ask as to why there should be any objection to due and proper inquiries. The thing looks so unintelligible, I hardly know what to call it; my hon'ble friend suggests the word suspicious, but I shall not adopt the word. The aid of the Local Government may be invoked so far as may possible; the Local Government will be in possession of the facts, of full circumstances and details upon which they could criticise the measure of the Trustees and say whether the particular scheme will be adopted or not. After it is promulgated and a variety of things that have been referred to in the course of the Hon'ble Mr Wheeler's speech done, it will be too late, and whether there had been a due and proper inquiry or not, ought to be possible to be found from the records of the Trust, and the Government will have to deal with the question

on that basis and no other, unless it be on independent inquiry by itself. For these reasons, I think that it is very necessary to insert the words 'due and proper inquiry', and if it is resisted with any degree of strenuousness, I am afraid the impression left upon those who look to the smooth and proper administration of the Act will be very harmful indeed."

The Hon'ble MR. K. B. DUTT said :—

"Sir,—The terms of the present amendment are so reasonable and modest that I am unable to understand for myself why the Hon'ble Member in charge of the Bill will not make that small concession. I have no doubt in my mind that the Bill as it stands certainly does provide some necessary safeguards, because, Sir, you will find that the members of the Board will not be able to exercise their powers merely because they wanted, but they will have to be satisfied as to the unfitness of the buildings for human habitation as provided in clause (*a*). Therefore, as I have said before, I am not prepared to say that the Bill does not provide any necessary safeguard, but it does. But the only question is that if the members and the people, whom this Bill is likely to affect, and if all communities in general ask for a concession—a very reasonable concession, and a concession which I have no doubt the Member in charge will admit—that the introduction and adoption of the amendment will then in no way interfere with its power, because the Act would provide that 'after due and proper inquiry,' it would be a matter for the Trustees to hold and to decide and determine what that proper inquiry would be. Therefore, my submission is that it is such a reasonable request and it is such a reasonable amendment, that its introduction would in no way interfere with the powers of the Trustees. Therefore, as it has been asked, and feelingly asked, by those Members who have brought this matter before you, I hope that the official Members will reasonably vote for this amendment."

The Hon'ble MR. PAYNE said :—

"A great deal has been said on this point, but I think after all it is not of such importance as the Members on the other side are led to believe. They seem to think that there is going to be no inquiry at all. The Hon'ble Mr. Wheeler has clearly pointed out that the inquiry comes at a later stage, that is in clause 46 (*now 47*). The Hon'ble Babu Deba Prasad Sarbadhikari has read from the English Act in which there is an exactly similar provision as that in this Bill. It merely says that the local authorities in England must be satisfied. That, I submit, is precisely the same as our wording, which is 'whenever it appears to the Board'. The Hon'ble Mr Apcar has referred to section 441 of the Calcutta Municipal Act and has pointed out that that section lays down that there must be an inquiry. But he forgets that that section refers to the improvement of abandoned or waste land, in which the General Committee act at once on their own authority without any further inquiry. If he will refer to section 406 of that Act which deals with matters of far more importance, similar to that which we are now discussing, viz., the improvement of *bustees*, he will see that there are no provisions for inquiry of this character. It is provided in section 407 that the inquiry is to come afterwards. This is exactly what we have done in this case."

The Hon'ble MR. APCAR said :—

"Sir,—May I say a few words by way of explanation? My purpose was to show that in section 441 of the Calcutta Municipal Act there is a provision for 'due inquiry.' If there is a provision that due inquiry must be made, then there can be a resort to a Court of Law to enforce that inquiry. But when there is such a provision and we find that it is neglected, what are we to expect when there is no such provision?"

[*Rai Sheo Shankar Sahay Bahadur.*]

A division was then taken, with the following result :—

Ayes 17.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff

The Hon'ble Dr. Abdullah al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Mahammad Fakhr-ud-din.

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

Noes 29.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuehler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O. C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lieut.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes 17, noes 29, and the motion was therefore lost.

170. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "after due and proper inquiry" be inserted after the words "the Board", in line 1 of clause 35 (*now 36*).

[*Rai Sheo Shankar Sahay Bahadur; Babu Bhupendra Nath Basu.*]

He said:—

"This question has already been fully discussed, and I do not wish to cover the same grounds and waste the time of the Council."

The motion was then, by leave of the President, withdrawn.

171. The Hon'ble Babu Bhupendra Nath Basu moved that the word "whether," and the words "or without such a representation", in lines 1 to 3 of clause 35 (*now 36*), be omitted.

He said:—

"My amendment, Sir, is this; to omit the word 'or without such representation' in clause 35 (*now 36*). That is, I want to restrict the operations of the Board only to cases coming up to it upon official representation. The Bombay Act, as my hon'ble friend pointed out when replying to the Hon'ble Rai Sheo Shankar Sahay Bahadur, has not got this provision. The English Act has not got this provision. The necessity that my hon'ble friend made out for a provision like this was that the Board would be in a better position to deal with smaller areas when dealing with insanitary neighbourhoods. Well, I believe the Corporation, or at least the officials of the Corporation, the Chairman or the Health Officer, are better conversant with the insanitary areas in Calcutta than a Board which is coming into existence for the first time. We know in the past the Corporation has been subjected to very severe criticisms as composed of men who hardly know their duty, but that again is now a matter of ancient history. The men who did not know their duty have long ceased to be members of Corporation, and the present Corporation has come into existence as the best Corporation that could be devised in India. We have got there representatives of Government in large numbers. We have got there representatives of trades and commerce, and we have got also a reduced representation of the people, so that with the reduced representation of the people and the enhanced representation of officialdom, I do think that that Corporation must be a perfect corporation even in the eyes of the non-officials, and therefore I do not see why there should be any distrust of this officialized Corporation, and more than that, there may be a very great difference between the Corporation and the Board. The Corporation may want certain areas, about which they know well, to be taken in hand. They after all pay the piper and not the Government, as the Hon'ble Mr. Bompas has said. When we come to the financial position of this Bill, I shall show that the Corporation have the ultimate responsibility. Why should the Board seek to go above their heads? We may easily ask them to submit to the Board a statement of the insanitary areas in Calcutta which require to be dealt with first and foremost, apart from the considerations which I laid before this Council when dealing with the question of due and proper inquiry. I think these are considerations which ought to weigh with the Council. Do you or do you not trust this Corporation? If you do trust them, there is no reason why you should not rely upon representations made by them. If you do not trust them, well, the surest course to create trust, and to remedy the state of things in the Corporation, is to introduce another Bill to create a new Corporation. With the non-official element, this Council will create a perfectly efficient, reliable and trustworthy Corporation, I have no doubt. It may be done in the course of the two months within which you put this Bill into operation. I do think that, as it is, it will be conducive to more harmonious working if we do not proceed upon representations called official representations. Bombay has done that, England and Scotland are doing that, why should Calcutta, admittedly not with the best materials available for the purpose, not do that, because these materials have got to be created? I do not mean to cast any imputation upon yourself, but all of us—even those who are supposed to be able at a moment's notice to take the command of the channel fleet—all of us have got to be instructed, and we lack the experience of Bombay and England. Why shou'd we depart from well-known precedents? I think there is no case made out for it. My hon'ble friend says there may be small areas. Well, he has got the Chairman of the Corporation at his elbow, who can easily give advice as to what sort of areas these are. If you accept the amendment you cease to be

[*Rai Baikuntha Nath Sen Bahadur; Rai Shiba Shankar Sahay Bahadur; Rai Sita Nath Ray Bahadur.*]

looked upon as being personally concerned, and the Improvement Trust becomes an authority only between the Corporation and the public, and thus secures public confidence. It avoids conflict between the Corporation and the Trust, and it does no harm even to the objects for which, as my hon'ble friend says, these words were thought unnecessary. For these reasons I do humbly venture to put this amendment for the consideration of this Council."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said:—

"Sir,—I think these four amendments are of the same nature (Nos. 171, 172, 173 and 174), and it would be convenient if they are taken up together. The amendment proposed would have the effect of the initiation of any improvement scheme by the Board on official representation only. It cannot be denied that the Corporation was responsible for the sanitation of the town, and that the sanitary improvements and all improvements of the town fell within the legitimate functions and duties of the Corporation. We do not know why a separate Trust is being created for the improvement of the town when by an amendment of the Municipal Act, with some additional powers being given to the Corporation, the object could have been equally gained. The duties and privileges could very easily have been entrusted to the Corporation. It is too late now to discuss the reasons which have induced the Government to create a separate body. The Corporation which has been existing for over about 50 years is expected to know all about the insanitary quarters of the town, and how sanitary and other improvements can be effected. The members of the Board of Trust are not expected to be omniscient beings, and it cannot be expected that when they just crawl out of their cradle, they will be in full possession of all information and facts bearing upon the improvement of the town. They shall have to acquire knowledge and information from different sources, and probably they shall have to take the help of experts. All this can be avoided if it be provided that the initiation of any general scheme of improvement or street improvement be taken up on an official representation. I submit, Sir, that this amendment should be accepted."

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR said:—

Sir,—I have an identical motion on the agenda, and I beg leave to support this amendment. I do not wish to repeat the same arguments, in recommending this amendment for acceptance. I simply beg to point out that I understood the Hon'ble Member in charge of the Bill to say that the Board will act under this clause, on its own initiative, only in case of improvement of small areas. If that is so, why not say so distinctly in the Act? Is there one single word in this clause to indicate that the Board will here act only with reference to the improvement of small areas? As it stands, there is nothing to prevent the Board from framing a general improvement scheme for the whole of Calcutta on its own motion without the necessary safeguards of an official representation. This is exceedingly unreasonable and objectionable."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"There is no doubt that the functions and duties that have been assigned to the proposed Board of Trustees are the legitimate functions and duties of the Corporation which, as a body, are every day dealing with questions relating to the letting out of new roads and squares. And there is no doubt that there is no other body better acquainted with the needs and requirements of Calcutta than the Corporation itself. The reason why a separate body has been created is that the Corporation has not at its disposal funds enough to carry out large schemes. Clause 36 (*now 37*) provides for three sources from which official representations are to be made. Therefore it cannot be said that, on the representation of the Corporation alone, the Board will be entitled to take action. There are two other sources to fall back upon. For these reasons I do not see any reason why the Board should be entitled to take action

[*Mr. Bompas.*]

The Hon'ble MR. BOMPAS said:—

"Sir,—This amendment is considerably more important than 169, which we disposed of last. The discussion of that amendment took three quarters of an hour, and was conducted with some heat. It seemed, however, to be formal and I resisted it on that ground. This Bill was entrusted to the Select Committee which sat for 35 days, and which made many alterations in the Bill, as will be seen from the different types appearing in the Bill. And I submit that, after the close scrutiny which it was subjected to in the Select Committee, the burden of proof lies very strongly on any one who moves an amendment to show that it is not merely indifferent, but that it makes substantial improvement on the Bill passed by the Select Committee.

"Sir, with regard to the very substantial question of whether the Trust shall have the power to take action to remedy insanitary conditions, and to draw up general improvement schemes without an official representation from the Corporation, I think I can put the case in a nutshell. The mover of the amendment has very kindly abstained from involving me at this period in the discussion, which, he indicates, will have to be undertaken some time as to the proper and real share which the Corporation has in the finances of the Trust. I will imitate that forbearance, and not take advantage of it. I will not impart exactly what proportion of the resources of the Trust are subscribed by the Corporation, but it cannot be denied that the Trust will receive very substantial grants from the Government of India. It will get 50 lakhs down and 1½ lakhs a year for sixty years and the proceeds of a jute tax and of the terminal tax on passengers. Supposing that, after two or three years, the Government of India inquire as to how the money, which was given for the sanitary improvement of Calcutta, is being spent, is it conceivable that the Trust should be compelled to answer that it could not proceed with the improvement of the city, as it had not yet received any official representation from the Corporation? I submit that, if they are getting funds independently of the Corporation, they have a right to spend it without any interference from the Corporation. And I see no drawback in this. In his previous speech, the Hon'ble Member talked of the safeguards of the official representation, as if the system of official representations provided for in the English Act was, in some way, a safeguard to the ratepayers of the town against indiscreet or over-violent action on behalf of the local authority, and that, I think, is also the apprehension of the Hon'ble Mr. Apcar who has courteously circulated to us his objections to these provisions, and I will indicate to him also the answer which I make to these objections. I say that the whole object of the official representations provided for in the English Act is not to restrain the local authority, but to compel it to move. Supposing that the local authority has no official representation but is of opinion that a certain area needs improvement, all it does is to send the Health Officer down to submit a report, and knowing the qualifications of the Health Officers of England, and knowing their knowledge in sanitation, it is incredible that the Health Officer should take a less serious view of the local conditions than is taken by the members of the local body. The object of that provision in the English Act is to compel unwilling bodies to act. If the Health Officer, in deference to the opinion of the local body or from fear of opposition, does not make a representation, then application may be made to the Local Government Board for the deputation of a medical officer to report on any area. The local authority must consider the report of such a medical officer, and if it rejects his advice the Local Government, Board may hold an inquiry of its own, and on the results of that inquiry, may order the local authority to frame a general improvement scheme. Such an order is enforced by mandamus, and if the members of the local authority are recalcitrant they will ultimately find themselves in prison. It is unnecessary to safeguard against over-violent and over-drastic action by local bodies. I agree that it is right, as the Bill provides, that the Corporation should have the power to compel this Trust to take action. That is apparently all that the Hon'ble Rai Sita Nath Ray Bahadur claimed, and that claim is fulfilled by the Bill. But it must be admitted that when the Board has got independent funds, it should have the power of spending its fund independently

of the Corporation. There is therefore every reason that the Trust should be entrusted with the duty of carrying out pressing improvement schemes without representation from the Corporation. The only plausible criticism that I heard directed against the working of the Bombay Improvement Trust is that that there was not sufficient co-ordination about its schemes. This is likely to occur if schemes can only be undertaken on an official representation. It would often be most economical and convenient for the Trust to deal with insanitary areas in the course of carrying out street schemes, and in such a case it should not have to wait for an official representation. There is one small point raised by the Hon'ble Rai Sita Nath Ray Bahadur. He contends that not only the Corporation but also the Health Officer and 25 ratepayers can make a representation, but this is not the effect of the Bill as it stands. The Health Officer and 25 ratepayers can only apply to the Corporation. It is true that if the Corporation rejects their application it has to report the matter to the Trust, but though in that way the attention of the Trust may be drawn to unhealthy areas, there is no compulsion put to it to take action."

The Hon'ble Babu Deba Prasad Sarbadhikari said :—

"Sir,—What the Hon'ble Mr. Bompas said with regard to the paying of the piper—an unfortunate phrase that was introduced by him this morning—has had a painful effect on my hon'ble friend to the left who, in the afternoon, like the giant refreshed, has adopted the self-same phraseology and thereby accentuated it: all this is very unfortunate, I am sorry to have to say. I thought that the Hon'ble Mr. Bompas was going to exclude the question of the payer of the piper from the consideration of this amendment at all events; yet he gave us the whole of the list of Government benefactions over and over again—50 lakhs of rupees by the Government of India down—1½ lakhs a year recurring, the jute tax and the terminal tax, in fact all the items about which we were told all yesterday and all the morning to day. Well, I do not know what other societies think of it; but in our society, when a man does pay, he generally does not make too much of an exhibition of it and tries to keep it as much as possible in the background. Hon'ble Members are hearing, with painful constancy, that 'when we are going to pay so much to the Trust, we must have everything in our own way.' I thought that, Sir, considerations like these ought not to cloud the issues entirely, particularly in a legislature where the matter is being attempted to be dealt with judicially. What the purely financial effect of the thing may be, or what the views of the payer of the piper with regard to a particular question may be, are not matters that ought to be allowed primarily to cloud the issues that come before us as a legislature. We have first got to consider whether the thing is right or wrong. If our position is correct, we wish to make our representation to the Government of India, and we hope that it will be inclined to reconsider the situation, as I read the message that was referred to by Your Honour this morning and yesterday. I refer to it because, while protesting against the incorporation of the mere financial consideration in connection with these amendments, the Hon'ble Mr. Bompas thought fit to bring it all the same by way of influencing the situation. But that brings me to the other side of the argument, supposing the Government of India, in two or three years, found that the lack of official representation hampered the Trustees, money was accumulated and no part of it had been spent. This would be too dreadful a position to contemplate, but is not very likely. Lack of official representation has not been allowed in a place like Bombay, which we were imitating and which has not suffered from dearth of schemes; how is it then that they would like to omit it here?

"The Hon'ble Mr. Bompas has stated that the Corporation would not be in a mood to hurry up its official representations possibly because it will have to pay 2 per cent. more than at present, which is threatened in another clause of this Bill, and the longer they could delay the improvements the more they would be able to defer their payment. If that is the idea which is to stand in the way of the adoption of a very necessary precautionary measure which this amendment advocates, I am afraid I shall have very little to say. The

Hon'ble Mr. Bompas began his observations on this amendment by saying that the amendments are, after all, indifferent and will do no violent harm to the Bill. If that be so, then where is the objection to these amendments? The sanctity of the proceedings of the Select Committee has been pleaded, but I am afraid that it cannot be binding on those who had not the honour of sitting on the Select Committee, whatever effect it may have on others who had that honour. We are here to consider, criticise, and deliberate on what the Select Committee has done in 3[illegible] meetings; it does not take away our obligation to bring before this Council, in the best of our light, what strikes us in connection with this Bill.

"It is certainly news to me and those who have carefully and anxiously read the English law on the subject and its commentaries, with the provisions of which we are familiar just as much as my hon'ble friend on the other side is —it is news to me certainly to hear, as we have heard this afternoon, that the object of insisting on this official representation in England was to make the unwilling local authorities come forward lest their medical officers, who were mercilessly criticised in the debate in Parliament which I referred to, should try to keep their lagging zeal behind My reading of the Act and the various commentaries on it certainly does not bear that out. They are just as anxious in England as we that the necessary safeguard should be provided and insisted on at whatever stage of the proceedings it may be. The Hon'ble Mr. Wheeler has stated that the inquiry is required later on. Possibly that is so. I do not know at what particular stage it is done in England, but my impression is that it is done at the initial stage, and rightly so. And that is what we want in this country. It is one of those safeguards which the British legislature, after very anxious and careful deliberation, provided. What used to be done formerly has been pointed out by the Hon'ble Babu Bhupendra Nath Basu; every single measure of improvement had to come before Parliament under the old administration and practice, which was very cumbrous, and when they thought that a more handy measure was necessary than was provided for in the shape of these expensive, toilsome and individual bills for particular improvements, they thought that they must have such safeguards and protectionary measures as would disable the local bodies from going forward with unduly ardent zeal, and would be a fitting check. That is the genesis of the brake power adopted in England which we seek to incorporate in this clause. We look upon the English measures as an eminently precautionary safeguard, and as we are borrowing from the English statutes with regard to every objectionable measure—objectionable at least from our point of view—I really do not see why safeguards such as these should be left out. If due and proper inquiry has been done away with, we are entitled to have some stay between the ardent zeal of the Board of Trust and those that are affected by it. Considerations and reports must lead to deliberation—of course they may also lead to fractional delay; but deliberation, which it must involve, is the essence of the whole safeguard with regard to the English Acts, which we cannot possibly overlook or ignore.

"Earlier in the debate, Sir, we were told that, so far as the Bombay safeguards are concerned, there is not really very much in the safeguards of an official representation because it emanates in the first instance from the Commissioner himself who, the Hon'ble Mr. Bompas says, being a Government servant, would not have much difficulty in making his representation if the Trust really wanted him to do so. I do not know whether the Commissioner of Bombay will take that as a compliment or otherwise. However, that is the Hon'ble Mr. Bompas's estimate of the particular gentlemen concerned. Then we have the resolution of the Corporation, which we have here—although there is more than suspicion now that that body may, for its own sinister objects, try to delay the improvements. We have the representation of the Health Officer here, in the next place, which comes through the Corporation, and, lastly, we have the representation of the 25 ratepayers, which has to come also through the Corporation. But it must have been in the passing oversight of the moment that the Hon'ble Mr. Bompas overlooked sub-clause (*2*) of clause 36 (*now 37*), which enables these 25 ratepayers to have independent action taken through the medium of the

[*Mr. Apcar*]

President if the Corporation decided not to make an official representation. If there was error that really wanted correction and if the Corporation stood in the way of such correction, the Corporation could not keep back their request. Therefore, the Trust would not be quite as powerless as one would be apt to think from the observations of the Hon'ble Mr. Bompas, and even if the Corporation be as idle as possible, there would be machinery enough to put the improvement schemes into motion in some shape or another. It is no new thing, or an isolated one, that men with refined and cultured opinions and sanitary ideals, visiting the eastern cities, with exaggerated notions of filth about which they have read in the books and which probably in their own countries they have not had opportunities of coming across, having regard to their glasscase social life, come and make pronouncements after a week's or a month's stay in the country, that Calcutta is about the worst city in the world. An observation like this, casually dropped, must not be allowed to impress those responsible for sanitary administration and which would lead to action like that which the Board independently would be authorised to take. I do not mean that casual observations and impressions like these will always lead to drastic action; but unless there is a safeguard of the kind that we advocate, it would be possible, without due consideration and inquiry and weighing of all the circumstances governing the situation, to work up imaginary grievances which the Board of Trustees would feel it incumbent to remove without reference to anyone. It is to avoid these possibilities that we are anxious that this safeguard at all events should be provided in this clause, and the Board of Trustees should not do anything except upon official representation of the kind that this amendment seeks to introduce."

The Hon'ble Mr. Apcar said:—

"Sir,—The Hon'ble Member in charge has dwelt on the question as being an unusually important one. Then he has referred to the fact that the Board should not be made to depend on the Corporation. Well, Sir, they need not be made to depend on them and still be in a position to exercise the large powers that are here conferred on them. The Government might have proposed that there should be a report made to them directly by a medical expert. All that we seek is that the Board should not move on its own initiative, because, when once they have that power, they will become partizans. That is recognised in the English law, and the Corporation in England are not given the power of initiative. Then the Hon'ble Member has said that this provision that is now introduced is not to restrain but to compel it to move, and he has given that as the reason for the provision in the English law. Well, Sir, I confess that did not occur to me, because it seems to me that the Government should welcome spontaneous action by the local bodies, and would have given them every opportunity to move if there were reasons for such action. If there was no restraint, there would be greater freedom on their part; so that I am not impressed with the explanation that has been given. I have an explanation which I shall submit, but certainly the requirement that there must be an official representation before an English Corporation can move cannot be merely for the reason given by the Hon'ble Member in charge. It would give wider opportunities to local bodies for the exercise of their functions if there were not that limitation imposed. We must look for other reasons, which, I believe, I shall be able later on to give. If, Sir, it is only intended to take up these small areas and not to undertake large clearances, then why are there enormous powers absorbed by the Board? If I had suspected that there was any such idea of dealing only with small areas, I certainly would have pressed in Select Committee for the adoption of the procedure for a reconstruction scheme, which is simpler and easier and is now being more generally approved in England. With all these enormous powers reserved to the Board, whatever the views of the Hon'ble Member in charge at the present day, it would not be safe to assume that those powers will not be fully used.

"Sir, to an ordinary observer, it would appear the most natural arrangement that Corporations charged with the municipal administration of cities should also be given the initiative in selecting an area in their administra-

to be declared an unhealthy area. Under the present Bill a Board is created *ad hoc*: I have accepted that as being beyond any question in our present discussion, but it is impossible to disregard the circumstance that the Corporations in England, so many of whom have earned just renown for their highly efficient and honest administration, are not permitted to exercise the power of initiative. We are forced to the conclusion that this must be due to reasons which have been regarded as being of the weightiest character.

"It would be a counsel of perfection, and I do not suggest that it would be feasible, to preclude every possible mischief, but in the English statute there is a well defined design apparent, to minimise the risk of personal influence having effect, and to so provide that those with whom will lie the decision in essential questions will be, as far as a public body can be so made, free from bias or suspicion that private interests will conflict with public duty. And so consistent is the law in England, in connection with any question leading to a declaration of an area to be an unhealthy area, that when, on the failure of a local medical officer of health to act on the complaint of ratepayers or justices of the peace, as the case may be, an appeal is preferred to the Local Government Board, the functions of that Board are strictly limited to the appointment of a qualified medical practitioner, and when the representation of the latter is received to pass it on, without comment, to the local authority concerned for action, the Local Government Board is kept studiously uncommitted to any opinion, evidently for the reason that the declaration of an unhealthy area, at a later stage of the proceedings, is subject to its confirmation. It is noticeable that there is disclosed, at every turn, a just appreciation of the circumstance that the consideration of the question of a declaration regarding an area, on which depend consequences of such a far-reaching nature as an Improvement Scheme would entail, is to be regarded—in popular language—as a judicial proceeding in which those who take part are performing judicial functions, and that the primary and essential principle of justice should be maintained, in that no person should sit in judgment on a question on which he already has committed himself to an opinion.

"And what do we find in our present Bill? A Trustee—and if there are more than one, the matter becomes more serious—may prefer a complaint, and may sit in judgment among a body of eleven persons only, who will be working with closed doors, on a proposal of his own, to which he has been committed—in all good faith it may be—and consequently has become an active partisan. Again, the proceedings under section 4 of the Act of 1890, to which I have drawn attention, as under clause 35 (*now 36*) of the present Bill, relate exclusively to sanitation, and in England expert medical opinion, which must be presented in writing, is made, as I have shown, a condition precedent to the question of an unhealthy area being submitted for consideration. Under the present Bill, thousands of the inhabitants of Calcutta may be placed in peril of being turned out of house and home, on a statement—which may be made verbally—of a carpet-bagger, who need not have any residential interest in the city, or any qualification whatever, whether medical or other, to express any opinion on any question affecting the sanitation of the city which he aspires to improve. And I hope that it will not escape observation that the initiative by such an irresponsible person is placed on exactly the same footing as of the whole Board taken together.

"I have submitted that the words 'whenever it appears to the Board, whether upon an official representation or without such representation' are too wide and general. Let me draw attention to what I have termed the possibilities under this clause. I am unable to discern, after close examination, what representation the Board must have before them, without which they cannot proceed, and in what manner the Board will proceed in such circumstances is not clear.

"If I am correct in my view, as I believe I am, the provisions of clause 35 (*now 36*) could be set in operation without any representation, and then the opening sentence in effect would run as follows :—

'Whenever it appears to the Board, without any representation,'

which would be giving the whole of the instructions thought by the legislature necessary to set in motion the machinery leading to an Improvement Scheme being framed.

"Now, Sir, what have we in the Statement of Objects and Reasons with regard to clause 35 (*now 36*)?

Clause 35.—The specification of cases in which the Board may frame a general Improvement Scheme closely follows section 23 of the Bombay Act, except that, under the Bill, the Board can act without the receipt of an official representation, *e.g.*, at the instance of the Health Officer. It is not anticipated that cases taken up otherwise than upon an official representation will be frequent, but it is desirable that they should be provided for. In England, under the Housing of the Working Classes Act, 1890, 53 & 54 Vict (*c.* 70, section 5), the medical officer of health is authorised to make an official representation direct.

"While it is stated that it is desirable that cases otherwise than on official representation should be permitted, it is not indicated why it is desirable, and it has escaped notice that, under section 23 of the Bombay Act, the complaint of the Health Officer is expressly placed within the definition of an official representation. If it is desired that such a complaint should always reach the Board and not be intercepted by the Corporation, clause 36 (*now 37*) expressly provides, in the event of the Corporation deciding not to make an official representation on the complaint of the Health Officer, that the rejected complaint automatically must be sent to the Board. The Board therefore will always have an opportunity of considering any complaint of the Health Officer, with the advantage of the opinion of the Corporation on it. But if the object of the words 'or without such representation' is merely to obtain a complaint directly from the Health Officer, unfortunately they sweep away the necessity of any representation whatever. This is quite clear; and it therefore becomes very apparent that this result could not have been intended, and the consequences resulting from the introduction of those words are so foreign to the object and reason officially given for them and would be so grave that I submit that they should be omitted. And it becomes evident that the policy of those responsible for the Bill originally had practically the same intention as I advocate: that is to say, that the action of the Board should be founded on expert medical opinion, and to prohibit the Board from taking action on their own motion and ever becoming judges in their own cause.

"But if there are to be representations other than official representations, what character of representation will be permissible?

"There is no provision in the Bill to prevent the Board, as a body or by a vote of the majority, abdicating their functions and accepting a proposal of one of their members, because it emanates from a colleague, as sufficiently established, to justify a declaration of an unhealthy area, nor to prohibit any report of a subordinate, any chance conversation, when repeated at a meeting of the Board, being taken as sufficient material on which the Board may, without any consideration or inquiry, without exercising their own discretion as they should be required to, declare an area to be an unhealthy area, and their declaration would be final. I submit that the Bill should be so framed as to prohibit any such manner of proceeding. If, however, we accept the principle that only an official representation shall be entertained, we preclude the possibility of action of any such character.

"The want of consistency in this portion of the Bill will become at once apparent to Hon'ble Members if they will only refer to the clause next following. To give greater protection from undue harassment, and as a security against unjustifiable action on complaints of an irresponsible character, in clause 36 (*now 37*), sub-section (*1*)(*c*), the Select Committee deliberately raised the number of persons, on whose report the Corporation might take cognisance of complaints regarding an unhealthy area, from not less than 12 to not less than 25 persons: and it should be observed that such complaints must be in writing and signed—in contrast with a verbal statement of an irresponsible person—by not less than 25 persons, each of whom at the time must be resident in the particular ward in which the area complained of is situated. The amendment acquiesced in had the appearance of a concession, but then where is the logic or safeguard in agreeing to this elaborate provision when a single

individual, who may be unable to get a second resident to join him, will nevertheless have the same motive power as the 25 resident ratepayers, and will be enabled to call upon the Board to take proceedings? This, Sir, is what is permissible under clause 35 (*now 36*).

"We have sought models from English statutes, and yet, when we have come to put our teachings into practice by legislating on a subject entirely new to ourselves, are we to disregard examples which have been based on actual experience, and to start a law unprecedented in its character, in neglect of the instructions from which we have sought enlightenment? Why is it that the English Corporation, whose administrations are carried on by public spirited men of long experience, are not permitted to undertake improvement schemes on unhealthy areas, except on official representation? And why should a power be conferred on the Board of Trustees in Calcutta, which is not given to the great municipal corporations in England? Is the answer given by the Hon'ble Member in charge a sufficient reason?

I have heard it asserted, in general terms, that it would be absurd not to give the power of initiative to the Board. The assertion is not convincing as an argument, when we recall that the prohibition was first given effect to in England 37 years ago, has been steadily maintained, and continues to exist to the present times.

"In connection, Sir, with the administration of local affairs by local bodies we often hear that great difference exists between India and England—but to what end? Is it not with the view of limiting the powers to be conferred on local bodies? And are we here to start in Calcutta a wholly untried local body, which has not yet come into existence, with powers deliberately and systematically withheld from local authorities in England?

"I desire to add, to leave no room for misconception, that on my part I regret that expert medical opinion is not made a condition precedent in our Bill to an official representation, as it is in England. I, however, against my inclination, am constrained to rest content with the number of persons, who will be required to join in a complaint, having been raised from 12 to 25 persons, and the provision that they must be residents of a more circumscribed limit and be more closely connected with the area in question, than in England.

"I submit that it would be impolitic, when we are introducing a new law, which certainly is causing widespead anxiety in Calcutta from its inception, to start with an experiment of an unprecedented character; and that it would be well to be content to bring our Board into line with the English Corporations, that is to say, to let their action depend upon official representations only.

"I am encouraged to press for it because a later clause, to which I shall in due course refer, further supports my view that the more extended power has been added, perhaps inadvertently and without sufficient examination of the conditions that prevail and the principle on which this exclusion has been made in England.

"Sir, it must not, for a moment, be supposed that I have any sympathy whatever with any who, either by their mode of living or neglect of their properties, become a menace to their neighbours, and imperil the general health of a community. But this sentiment would be no answer to the reproach of offending against a primary and essential principle of justice, which requires that consideration of grave issues should be conducted, so far as it may be in our power to make it, without suspicion of bias, and that they should not be undertaken without justification or on inadequate grounds."

The Hon'ble MR. WHEELER said:—

"I do not propose, Sir, to emulate the heat with which the Hon'ble Mr. Apcar has just represented his views, and the warmth from which I am

[*Mr. Apcar; the President.*]

suffering is rather engendered by the sun's rays than by his statement of the case. The possibility of this wonderful carpet-bagger, at whose dictates the thousands of Calcutta are to be left homeless, leaves me unruffled. In this case the issue is fortunately simple, namely, whether the Trust shall, or shall not, be allowed to act otherwise than upon receipt of an official representation, and two reasons are advanced for preventing them moving upon their own initiative. First, we are told that the submission of an official representation is a necessary safeguard against ill-considered action Secondly, it is urged that the Board should ony act at the instigation of the Corporation.

"Let us consider the first argument, that the procedure of an official representation is a desirable clog upon the rashness of the Board. The picture which has been drawn of these impetuous local authorities in England, only restrained from rushing into improvements by the requirement of an official representation from their medical officer of health, is scarcely in accordance with the facts. The feature of the situation in England has been the difficulty of inducing local bodies to move at all. To take the only book of reference I have here at the moment—Allan's edition of the Housing of the Working Classes Act—almost the first words which occur in the introduction are as follows. The reference is to the earlier Acts passed to provide for the housing of the working classes :

'For various reasons these statutes failed to produce the result anticipated, and many of them were practically never put into operation. At first this was largely due to the apathy of local authorities'

"And even supposing that it was sought to clog the desire of local bodies in England to effect improvements, by insistence upon a preliminary official representation, how did these deluded English politicians proceed to do so? By entrusting the power of making a representation, which the local authority *must* consider, to an expert sanitarian, the medical officer of health. This reaches an almost Gilbertian height of humour. We sometimes hear the cry, Sir, to save us from experts; and I confess that, if desirous of discouraging the execution of sanitary improvements, I should scarcely hope to do so by placing power in the hands of an expert sanitary officer to compel them to be considered. I submit that the position in England has not been correctly represented. The machinery of official representation, and all the special powers vested in the medical officer of health, were not devised as a deterrent to the impetuousness of local authorities, but as a means of forcing them to take action, and the idea that it was necessary to discourage their enthusiasm can only be characterised as weird.

"The second point, that the Trust should only act as the agent of the Corporation, has been put with a frankness which is somewhat surprising. It strikes at the whole idea of the Bill, and at much that has been admitted in connection with the Bill. It is admitted that Calcutta stands in need of improvement; it has scarcely been seriously challenged in the various opinions which have been collected, that the work of improvement is beyond the powers and resources of the Corporation. The Bill therefore aims at the creation of a special board for this special work, and places at its disposal certain special revenues. Having gone so far, surely you stultify the Bill completely if you seek to secure that the Board shall not undertake any work, and shall not spend its funds, except on the initiative of the Corporation. I submit, Sir, that while the Corporation may well be given the right to make an official representation, it is impossible to say that the Board shall not act otherwise than upon such a representation."

The Hon'ble MR. APCAR said:—

"Sir,—Does the Hon'ble Member seriously suggest that I said that the local medical officer was a clog?"

The PRESIDENT said:—

"I do not think so."

[*Babu Bhupendra Nath Basu.*]

The Hon'ble Babu Bhupendra Nath Basu said:—"Sir,—I look at the despairing attitude of my hon'ble friends behind, the representatives of the Bengal Chamber of Commerce and the Trades Association, and I must say that I feel a great sympathy for them, for I feel that they are kept away from their business on what is after all practically a useless work. I do not conceal from myself or from my colleagues that I also entertain to some extent that feeling. But though I sympathise with them and I pity myself, I think it is my duty all the same to place before my colleagues in this Council why I consider that this is one of the amendments which is vital in regard to the principle of the Bill. The Hon'ble Mr. Bompas has just now said that there are amendments which are indifferent and generally do not affect the principle of the Bill, and about which the official Members naturally do not much concern themselves. Well, I wish that he had made a declaration earlier, because many of the amendments were considered by us if not vital but important, and if he would concede to us things which he considers unimportant, I think we might get on much more smoothly than we are doing. Probably it would be conceding nothing to us, but all the same we would have a feeling that some concession after all has been made to us. At present we feel like the waves breaking themselves on the embankments which protect the Netherlands. What is the objection that the Hon'ble Mr. Bompas takes? He says that the Corporation is not the party who would be best able to advise the Trust. He also says that when we, the Government, contribute so much for the upkeep and for the carrying on of this Trust, shall we not be at liberty to do something for ourselves and to say that we also possess some knowledge of the conditions of Calcutta which knowledge is not the exclusive heritage of the Corporation? Well, Sir, my friend the Hon'ble Babu Deba Prasad Sarbadhikari has said that in Indian society it is considered bad form of etiquette to boast too much of one's generosity or to show it to the outside public to any great extent. I suppose I am quite sure that even the worst enemies of my hon'ble friend will not accuse him of excessive degree of modesty, and that in putting forward his claim to take an initiative on the contribution that he makes or of those whom he represents, I think he has based his claim upon the responsibility that the Government of India takes upon itself for the proper working of this Trust. I will take it at that. I will take it not upon the ground upon which he has put forward or has been understood by my friend the Hon'ble Babu Deba Prasad Sarbadhikari, but I will take it that, as the Government contributes a substantial part of the expense of this Trust, the Government expects that the work of the Trust should be carried on and not be at a standstill for want of initiative. Assuming that that is so, does my friend the Hon'ble Mr. Bompas really contemplate such a state of affairs—that the Corporation of Calcutta who have been—my hon'ble friend ought to know by this time—greatly hampered by their want of means in carrying out the most necessary reforms in Calcutta, will not avail themselves of the earliest opportunity of putting pressure upon this Trust for whose maintenance it will have to pay an enhanced rate of 2 per cent? Does he mean to say that the Corporation will sit supine with these 50 commissioners—representatives of Government, of Commerce, of Trade, and of the Port Trust and of the people,—that they will bask in sunshine lulled into langour by the enervating temperature of the tropics and will do nothing for the furtherance of an object for which they are contributing so heavily? Does he think that the ratepayers of Calcutta, who are going to pay 2 per cent., will sit quiet in these insanitary areas which they have been striving to improve? Does he mean to say that their representatives in the Corporation will sit quiet? I think that this is a state of things that cannot be anticipated. Therefore that argument fails.

"The next thing is this, that my hon'ble friend has necessarily been confused by the confusion that he has himself created. Chapter III has got so many things in it that it is difficult to keep them distinct. Section 35 (*now 36*) deals or professes to deal with one aspect, and that is with insanitary areas: 'Whenever it appears to the Board, whether upon .....'

"So that this relates exclusively or is intended to relate exclusively to insanitary areas. Who better than the Corporation of Calcutta—in whose case

I can only say that it will necessarily refer to their Health Officer—are better able to place information which will be available for the purposes of this Act at the disposal of the Trust? Who better than they will be able to say which are the insanitary areas which ought to be dealt with in the first instance, and which not? Is it not possible that while the Corporation, which must be treated as expert in these matters,—think that a particular area should be dealt with first, the Board may in the meantime, irrespective of any reference to the Corporation,—because there are many areas which are insanitary in Calcutta—and insanitariness may be only a question of degree—proceed to deal with some other area, and that therefore, apart from the other question of safeguards, question of clogs, I say, upon the principal question as to who is the best person to advise, is it not the Corporation that is best able to advise, upon whom it is desirable that we should depend for advice? My friend, the Hon'ble Mr. Wheeler, says that it was felt necessary to create a new body because the Corporation had too much to do. I also assume that position fully, but who is better able to suggest to the Board as to what areas should be particularly dealt with than the Corporation? The other aspect is that it is a safeguard also, that when we come to apply the succeeding provision as to whether an area is to be dealt with as an insanitary area or as an area in which improvements ought to be carried out, the provisions of the law are different in different classes, we have got to deal with objections by the people who are affected by this scheme. Well, if the Trust is not to be the middleman, to decide between the Corporation and the people, if the Board itself is a party which takes the initiation, that character of integrity and impartiality will be taken away.

"Is public confidence of such small value that it may be spurned, not taken into account altogether? If all that you desire to secure can be secured, and if at the same time you do not forfeit public confidence, then may I appeal to you with all confidence, that if such a course is possible, that course should be adopted? I have tried to show that you lose nothing and you gain much if you avail yourselves of the experience of the Corporation, experience of the last 40 years and more, and at the same time you retain the confidence of the public. Are these considerations to be lightly set aside? Is it to be said that because something has been done in the Select Committee with the framing of the Acts, that the wording of the law is likely to be the law of the Medes and the Persians when once settled by the Select Committee, and that if there is any good and valid reason for deviating from the language which has been adopted, we shall not do so because the Select Committee has done it. If that were the position, then what is the use of a Bill coming before the Council? Are we here merely to endorse what the Select Committee has said? Is that the principle of legislation that is to be adopted in this Council? If so, it is better that it should be clearly stated: then much of the valuable time that we who have to earn our daily bread devote here may be saved and would be usefully employed elsewhere. In the Select Committee it is not always that questions of principle are decided; these questions are raised there sometimes and decided by majority, and there is a clear understanding and clear reservedness that these questions will again be raised before the Council and the whole view of the Council taken. I therefore appeal to the official Members of this Council to support me at least in this amendment, and I do so with great confidence."

A division was then taken, with the following result:—

Ayes 17.	*Noes 28.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan	The Hon'ble Mr. D. J. Macpherson, C.I.E.
	The Hon'ble Mr. E. W. Collin.
	The Hon'ble Mr. C. J. Stevenson-Moore.
	The Hon'ble Mr. [illegible]

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh

The Hon'ble Babu Bal Krishna Sahay.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr S. L. Maddox

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuehler

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur

The Hon'ble Mr C. F. Payne.

The Hon'ble Mr. H J. Hilary.

The Hon'ble Lieut.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod

The Hon'ble Mr. F. H Stewart.

The Hon'ble Mr. W J Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes 17, noes 28, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

172. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "whether" and the words "or without such a representation", in lines 1 to 3, of clause 35 (*now 36*), be omitted.

173. If Motion No. 168 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the word "whether" and the words "or without such a representation", in lines 1 to 3 of clause 35 (*now 36*), be omitted.

174. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the word "whether", and the words "or without such a representation", in lines 1 to 3 of clause 35 (*now 36*), be omitted.

174A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the word "whether" and the words "or without such a representation", in lines 1 to 3 of clause 35 (*now 36*), be omitted.

175. The Hon'ble Mr. Apcar moved that, for lines 1 to 3 of the first paragraph in clause 35 (*now 36*), the following be substituted, namely:—

> If the Board are satisfied, after due and proper inquiry, held with reference to an official representation made under section 36 (*now 37*), that within a certain area—

He said:—

Sir,—In the Bill we have that any building in 'any' area may be declared to be an unhealthy area. And the amendment is to substitute 'a certain'

for 'any' area. In all seriousness I say that the clause as framed is so wide that the Board could, on the representation of any single individual, or on hearsay, or on no representation at all, on the allegation that there are some insanitary buildings here and there in Calcutta, declare—we now arrive at a fitting climax to what has preceded—declare the whole area of Calcutta to be an unhealthy area, and forthwith frame an improvement scheme for the whole area and still be within the law. My sole purpose is to obtain a check on their action, should the Board fail to make a proper inquiry in respect of buildings alleged to be insanitary, and to secure a proper discrimination if they declare an area to be an unhealthy area without regard to the circumstance as to what is reasonable and necessary. I hope, Sir, that I may have your Honour's sympathy in my endeavour so to shape the Bill as to render the interpretation I have indicated impossible, and to control the Board in the event of arbitrary conduct on their part. There is point given to my amendment to substitute 'a certain' for 'any' area by the words used in the English statute where, Hon'ble Members will see, it is 'a certain area'. I am most anxious to convey that if this variation is allowed to remain, a serious argument would be pressed that a distinction in meaning is intended to be made, and I submit it is our business in Council to leave no room for such distinction to be made, that is to say, if the local authority in England are under an obligation to consider what area is necessary in each case, the Board under this Bill would not be under the same obligation; they would be free to fix their limits according to their arbitrary inclinations and could not be restrained if they exceeded the bounds of necessity or reason. The Hon'ble Member in charge of the Bill will remember that, at the meeting held at the Town Hall, strong objection was taken to the indefinite power given to the Board in this respect. It was first voiced by the President of that meeting in his opening speech, when he laid stress on his objection to the phrase 'any building in any area,' and his objection was repeated by more than one speaker It would serve in some measure to mitigate the fears that undoubtedly have been aroused by this novel and drastic measure if the present point were conceded.

"We of course know that, by reason of omissions and other defects in the drafting of statutes, not infrequently complications ensue. But then these occur owing to oversight or unforeseen difficulties: there would be no excuse if the causes are known to the legislature before a measure becomes law.

"I am led to quote from a judgment in a case in which the right of an English proprietor of an indigo concern was attacked by the local municipality of Motihari, and owing to a defect in an Act of this Council, the aggrieved person suffered. This circumstance led the learned Judge who delivered the judgment of a divisional court of the Calcutta High Court, to exclaim:—

> It is most lamentable that Acts should be so drawn up without an intelligent consideration of, and anxious regard for, private rights which ought to be the study of every legislature that springs from English authority.

"We have followed English statutes closely enough, in certain particulars. To make variations from it dangerous for interpretation would be deplorable. They certainly will create confusion, and I believe will be a source of endless trouble. The judgment of Sir James Colvile in the Privy Council, from which I have before quoted, is of sufficient high authority for us to accept it as a direction to ourselves: to take it as a warning not to change, in particular, 'a certain area' in section 4 of the English statute which I have set out, into 'any area' as appears in this clause: particularly when I feel assured that it is the view of the whole Council to convey the same intention: that is to say, the area to be dealt with should be what is reasonable and necessary; which implies a proper consideration before a declaration is made; and not to give power to the Board to act arbitrarily, without regard to what may be reasonable or necessary in the circumstances of a case.

"I am not asking for anything new, anything not sanctioned among the common places of law and usage in England; but only for the protection and safeguards that are admitted in that country as of right.

[Mr. Bompas; Babu Deba Prasad Sarbadhikari.]

"Then Sir, I would add with reference to a remark that fell from the Hon'ble Member opposite with regard to due and proper inquiry. If there is no due and proper inquiry, then a Court of Law can interfere to impose a due and proper inquiry. If there has been an inquiry, it does not matter whether the discretion used has been faulty, so long as that inquiry has been made. All that the law requires will have been done But here if there has been unreasonable area included, then the Court might intervene before action is taken, and therefore, Sir, there will be some check on arbitrary conduct. Sir, it is not the point whether or not the Board is likely to act unreasonably. This is not the form, I submit, that legislation should take, and we want direction given in the regular way. I, therefore, submit that it will be an advantage if we have this little amendment made and 'a certain area' substituted for 'any area'."

The Hon'ble MR. BOMPAS said :—

"Sir,—I oppose this amendment, because whatever may be the object of the Mover of the amendment in regard to these words which are alone under discussion, I do not think that the change in the wording of the section proposed by him will attain that object. As far as my knowledge of the English language goes, and as far as the advice goes of those who are responsible for the drafting of this clause, there is no difference in law as to whether you say 'if the Board are satisfied, after due and proper inquiry', or 'whenever it appears to the Board.' The meaning is precisely the same. An area is a tract with certain definite boundaries, and under clause 42 *(now 43)* of the Bill the boundaries of any area covered by an Improvement Scheme must be very clearly defined. The whole of Calcutta may be called a certain area, and the words proposed by the Hon'ble Member will not be able to circumscribe the operations of the Trust I really cannot say to this Council that it seems to me arguable that there is anything in this part of the amendment that deserves consideration."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Struggling with the English language, English idioms and English words has been the constant misfortune of our lives, and how far we have been able to overcome the difficulty is a matter that we cannot judge of; but when two gentlemen like the Hon'ble Mr. Apcar and the Hon'ble Mr. Bompas, who, I suppose understand the language as much as anybody else, have different opinions with regard to matters like these, we who have greater difficulties feel very much embarrassed indeed. But I had had occasion of talking over the matter with very distinguished persons engaged in the practice as well administration of law. Europeans, who, I suppose, understand the language, attach the greatest possible importance, for reasons that may not have been quite clear to me, to the change that this amendment seeks to introduce. I do not quite conceive whether the Hon'ble Mr. Bompas considers that it would be desirable to introduce restrictive terms so that real restriction may be possible, and if his complaint is not that, Mr. Apcar's amendment does not go far enough in achieving that end. But if he has no objection to the spirit of the amendment, we might expect him to make such suggestions as will achieve the end, and will make real restrictions possible. But in the absence of such suggestions, I think it is rather incumbent upon us to seek to introduce such restrictions, and if there is really no difference created by the adoption of these words, I cannot understand why their adoption should be resisted. If 'any' and 'certain' are just the same and if certain Members of the Council seem to think that it would be an improvement to have the word suggested by the Hon'ble Mr. Apcar, I think it is the greater reason for adopting that suggestion. But here again, Sir, we have to refer to the English Acts as well as the Bombay Act, which happen to be on our side of the contention. Where we depart needlessly from the precedents so often flourished before us, we come to look upon the situation with a certain amount of misgiving, and the difficulty of understanding the English language accentuates the perversities of the situation. In that view of things I desire to support this amendment, and

[*Mr. Apcar.*]

as the Hon'ble Mr. Bompas has said that it really makes no difference, I trust that the Council will see its way to accept this amendment."

The Hon'ble Mr. APCAR said :—

"Sir,—Whatever may be the opinion which the Hon'ble Member attaches to the meaning of 'certain' being included, there is no doubt about this: that it is a change, a variation from the English Acts. Why is that variation made? Is it merely for the purpose of making a change? And when you have changed, is it difficult to understand that arguments will be relied upon to show a distinction between meaning intended under this Bill and that which attaches to the words used in the English statute? It will be asked why is that change made? There must be an object and the object which I have stated will then be relied upon. Sir, it would be a fruitless task for us each, the Hon'ble Member in charge and myself to say that 'I take this view'. The Hon'ble Member in charge of the Bill has no doubt consulted his legal advisers. But I may assure Your Honour that I would not be likely to make a proposal of this nature until after I had made the most careful inquiries from competent advisers. I mention this that it may not be assumed that I am stating only my own individual opinion. I have taken great care to learn what is the opinion of lawyers of eminent authority, and their views concur with mine."

A division was the taken, with the following result :—

Ayes 15.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay

Noes 29.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. R. K. Finlayson.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Maulvi Saiyid Muhammad Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

[*Mr. Apcar; Mr. Bompas.*]

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes *15*, noes *29*, and the motion was therefore lost.

175A. The Hon'ble Mr Apcar moved that, for lines 1 to 3 of the first paragraph in clause 35 (*now 36*), the following be substituted, namely:—

> If the Board are satisfied, after due and proper inquiry, held with reference to an official representation made under section 36 (*now 37*) or upon the representation in writing of a qualified medical man empowered in that behalf either by the Local Government or by the Board, that within a certain area—

He said:—

"Sir,—I desire to offer the Hon'ble Member [clause 35 (*now 36*)] in charge a *locus penitentiæ*. I beg again to refer to the note in the Statement of Objects and Reasons attached to the original Bill, which says:

> 'Clause 15 (*now 36*).—The specification of cases in which the Board may frame a general improvement scheme closely follows section 23 of the Bombay Act, except that, under that Bill, the Board can act without the receipt of an official representation, *e.g.*, at the instance of the Health Officer. It is not anticipated that cases taken up otherwise than upon an official representation will be frequent, but it is desirable that they should be provided for. In England, under the Housing of the Working Classes Act, 1890 (53 & 54 Vict., c. 70), section 5, the medical officer of health is authorised to make an official representation direct.'

"Sir, here I offer him a chance of adopting a clause on which there will be provided direct representation made to the Board. That was indicated as desirable in the Objects and Reasons for the change introduced and is the reason of this amendment, and since it is based upon the official Statement of Objects and Reasons, I hope that the Hon'ble Member will reconsider the question and accept the amendment which I now present to the Council."

The Hon'ble Mr. Bompas said:—

"Sir,—This amendment also appears to me unnecessary. The Hon'ble Member wishes that the opinion of a qualified medical man should be obtained, which would be recorded in writing. But I do not see that he gains anything by this. What is the position? The Board has got to be satisfied that certain buildings are unfit for human habitation, and that the area is insanitary. It is almost incredible that the Board should form this opinion regarding any area, without having taken the advice of some competent sanitary officers. Supposing it is conceivable that the Trust should do so, it has then got to receive objections, and presumably, if any people inhabiting a sanitary area were told that their property would be acquired on the ground that it was insanitary, they would file objections. If their objections were rejected by the Board, they would then go to Government. And the Board will have to make the Government believe that that particular area is unhealthy. The Government has got to be satisfied. The Board will necessarily have some medical advice. But suppose that inquiries begin on the report of the Health Officer, whose opinion, though not accepted by the Corporation, has been forwarded to the Board of Trustees. I see no advantage in inserting in the law a provision that the opinion of such an experienced official as the Health Officer of Calcutta must be checked by a further inquiry by another medical

[*Mr. Apcar.*]

officer, who may be very much junior to the Health Officer. I oppose this amendment as I would leave the Board unfettered discretion as to the method it may adopt to arrive at a satisfactory decision in any matters which may come before it."

The Hon'ble Mr. APCAR said:—

"Sir,—I am afraid that the reasons that I gave have been completely lost. The reason why there should be medical opinion is this: that the Board should not take the initiative and that they should come to the consideration of the question unbiased and not as partizans. After they have decided to take action with regard to an area and then to send the matter for the opinion of medical officers, obviously is a very different thing. My purpose is that they should not in any degree involve themselves in the consideration of a matter in which they themselves at a latter stage are to be the judges. I do not wish to see them as judges in their own cause. That is what I tried to instil before, and I need not repeat myself here. The Hon'ble Member has utterly misconceived the object and the purpose with which I have presented this amendment, and if the Board are going to act in the way the Hon'ble Member has stated, there seems to be the greater reason to protect the Board from acting on their own initiative and to require them to act on medical advice."

A division was then taken, with the following result:—

Ayes 14.	*Noes 30.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Sir Bijay Chand Mahtab K.C.I.E., Maharajadhiraja Bahadur, of Burdwan.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Maharaja Manindra Chandra Nandi	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. T. Butler.
The Hon'ble Mr. Saiyid Wasi Ahmad.	The Hon'ble Mr. E. P. Chapman.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Rai Baikuntha Nath Sen.	The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Babu Braj Kishor Prasad.	The Hon'ble Mr. B. N. Finnimore.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Mr. S. L. Maddox.
The Hon'ble Babu Bal Krishna Sahay.	The Hon'ble Mr. B. C. Mitra.
	The Hon'ble Mr. G. W. Kuehler.
	The Hon'ble Mr. L. F. Morshead.
	The Hon'ble Mr. C. H. Bompas.
	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
	The Hon'ble Mr. C. E. A. W. Oldham.
	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Kumar Sheo Nandan Prasad Singh.
	The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr. F. H. Stewart.
	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
	The Hon'ble Maulvi Saiyid Zahir ud din.
	The Hon'ble Mr. T. R. Filgate.

[*Babu Bhupendra Nath Basu ; Babu Deba Prasad Sarbadhikari*]

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Honble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes 14, noes 30, and the motion was therefore lost.

The following motion was, by leave of the President, withdrawn :—

176. If Motion No. 175 and Motion No. 175A be not carried, the Hon'ble Mr. Apear to move that, for lines 1 to 3 of the first paragraph in clause 35 (*now 36*), the following be substituted, namely :—

> If the Board are satisfied, after due and proper inquiry, held, either with reference to an official representation made under section 36 (*now 37*) or without any such representation being made, that within a certain area—

177. The Hon'ble Babu Bhupendra Nath Basu moved that the words "not less than ten in number" be inserted after the word "buildings", in line 1 of clause 35 (*now 36*) (*a*).

He said :—

"Sir,—My amendment is a very simple one, but even simplicity is hardly a recommendation in the matter of these amendments.

Clause 35 (*now 36*), as provided, says :

'Whenever it appears to the Board, whether upon an official representation made under section 36 or without such a representation—

(*a*) that any buildings in any area . . . .'

"So that the whole area may be declared insanitary and the provisions of the law may be applied. If a single building is found to be insanitary, or if a very small number of buildings is found to be insanitary, they can be easily dealt with under the sanitary improvement provisions of the Calcutta Municipal Act (Ben. Act III of 1899), which does not require a whole area to be taken up for improvement. It is therefore necessary that some limitation ought to be placed on the statute that, in declaring an area to be insanitary, you must use the wording 'a group of houses,' a phraseology which I find used in the English Act. I was thinking of suggesting a limit, and if *ten* houses are found to be insanitary in any area, I would concede that action might be taken under this clause. It is a very small and low limit. Less than ten houses in number could very easily be dealt with by the Corporation, and I am sure that my friend, the Hon'ble Mr. Payne, in his own day, had dealt with a large number of houses under the Sanitary Improvement Act. That is all I have to say in support of my amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Sir,—I have a similar motion, and the only other consideration that I should like to urge in support of that motion would be a provision in the English Act under the supplemental provisions, section 72 of the English Act. That section connotes the necessity of some—I shall not say preferential, but—differential treatment in the case where the number of houses happens to be under 10. Section 72 of the Housing of the Working Classes Act of 1890 says:—

'Where an official representation made to the London County Council relates to not more than 10 houses, the Council shall not take any proceedings on such representations,

but shall direct the medical officer of health making the same to represent the matter to the local authority to deal with such cases in the way provided by this part of the Act.'

"Then section 73 proceeds to say that the local authority may submit such resolution to the Secretary of State, and thereupon the Secretary of State may direct the officer concerned to hold a local inquiry, and the arbitrator is to report to the Secretary of State as to whether, having regard to the size of the area and the position and structure and of the neighbourhood, and to the provisions of the Act, the case is either wholly or partially fit to be dealt with in the particular way. I quite realise the answer that will be given to my argument based on that section, because it was felt that where isolated houses or groups of houses less than 10 in number were concerned, it was hardly right that the local authority should be called upon to deal with them under the ordinary provisions of the Act. The reason of this differentiation is that the matter might come before the superior authority, who, I take it, would be the Home Secretary, who would make a keen, elaborate, local inquiry, and on getting a report would consider whether the London County Council or a central body should make a contribution or not. That is not the objection to which I am calling attention in this clause. My object is to show that where the number of houses affected is very small, the same drastic measures contemplated by the clause ought not to be applicable. Of course I do not deny that if a house is peculiarly insanitary, intervention of the sanitary authorities would be necessary. That is all amply provided for under the Municipal Act,—provisions that have, in some instances, been given effect to with beneficial results. The mode of dealing with isolated houses ought to be limited to the less drastic provisions of the law, and as the Municipal Act would still be in vogue, it can be given effect to and effectively operated on under the provisions of that Act. Supposing, Sir, in a very highly sanitary and fashionable quarter somewhere near Chowringhee, where every house is all that could be and ought to be, there happens to be a single or two or three small houses which are not of the ideal standard of sanitation, it would be possible, under a clause like this as it stands, to declare the whole of that area insanitary and to embark upon a very costly and elaborate scheme of improvement which other circumstances would not warrant. Of course the old story of good sense, discretion, will be repeated in answer, and we shall be told that we must not think of such unlikely cases. But when we have to deal with legislative matters like these, one likes to be quite sure of his ground and to feel that such a state of things ought to be impossible. Of course, if the group of buildings are so bad as to be a standing source of threat to the whole neighbourhood, the Trust would, under the powers of other clauses, be able to take action. But when the number of houses is small, 10 or less, the English Act has recognised that a certain amount of differential treatment is necessary, although there it took the particular shape of having special contributions in aid of their regulation or improvement. How that is to be done is not made clear in the way that clause 35 (*now 36*) seeks to make clear. The English Act stops short there: that special contribution should be called upon from the London County Council, for the obvious reason that the local authority ought not to be burdened with considerable amounts. Having that as the basis of the argument, we thought that as some limit ought to be placed,—10 would be a convenient number to name,—and that it has been named in the various amendments that are now on the agenda paper. The Hon'ble Babu Bhupendra Nath Basu has argued that any building might include a single building. There, again, the question of the English language comes in. I do not think that any buildings would go so low down as to include a single building, but if there is appreciable insanitation in the neighbourhood, in that case only we suggest that the drastic measure of clause 35 (*now 36*) should come into operation."

The Hon'ble MR. APCAR said:—

"Sir,—I support the adoption of this amendment as a very necessary provision to be incorporated in this Bill, with the object of mitigating the hardship that its operation, without the qualification that is proposed, might

inflict. Because there happen to be six or eight houses in an area that may be standing there under insanitary conditions, to take that circumstance as the ground for framing an improvement scheme, would, I submit, be an excessive use of power. It would be certainly in excess of the power permitted to local authorities in England. In the Housing Act of 1890, where it is of general application, no specific number is stated, but there is a provision of a definite character for proceedings of a less drastic character than are imposed for improvement schemes with regard to small areas, and that provision has given opportunity to the Local Government Board, under whose active supervision the local authorities give effect to that Act, following the earlier practice, to control their operations in the public interest. But there is no such opportunity afforded by this Bill. The Local Government Board are even directed by law, before confirming a proposal, to send an inspector to the locality to inspect and make inquiries. No control of this kind, I may mention, is contemplated by this Bill, and it now has come to be recognised in England, that no scheme, dealing with less than ten houses, should be carried out as an improvement scheme. When, however, the Act applies exclusively to the London County Council, that body is expressly prohibited from framing an improvement scheme where an official representation relates to not more than ten houses.

"Sir, we cannot get away from, or ignore, the law and practice in England, and there, three courses are open to local authorities: first, an improvement scheme, a term that has a definite meaning and attaches to a scheme for the improvement of large, unhealthy, or slum areas: secondly, the power that now is being used, more and more, to compel owners of insanitary houses to put their houses in proper order at their own expense; and thirdly, a reconstruction scheme which is a corollary to the second and is worked with it. It applies to small areas only, and follows action taken for the demolition of individual houses, and as I have indicated, is now recognised to relate to not more than ten houses

"In the present Bill, there is no alternative to an improvement scheme. It is an Improvement Scheme or nothing. It is true that no limit is placed on the Board as to the extent of an area to be dealt with, and it may be said that they may deal with a small area or a large one. That might equally have been said with reference to the local authorities in England: mention might have been made, in the English statute, of an improvement scheme only, and they might have been left to frame such a scheme as they, in their unfettered will, might have desired. But that never was said; on the contrary, in the public interest, provision has been made, as well for their guidance as for purposes of restraint and control over them, for the three different courses open to local bodies in their administration of the Act.

"It will be observed that we are asking for the acceptance of a policy that was adopted deliberately in England, many years ago, and was followed when a fresh Act was passed more than eleven years ago, and has been continued in force to the present day.

"I do not suggest that the English law is to be followed rigidly in every detail, regardless of every consideration. But I urge that when we have an English Statute which ostensibly is our model, on an entirely new subject to ourselves, and the local authorities have been acting in England for so long a period and continue to act under it in proceedings and questions about which we have absolutely no experience—when there is a departure in an important principle,—I submit that it is very necessary, and indeed essential, that we should have been informed of the reasons and objects for any departure. I, however, am not prepared to say that this departure was deliberate, after I have come to appreciate what labour it is to study the English statute in all its parts. It may have been an oversight, and I venture to say it most probably was so.

"I submit that it would be an arbitrary exercise of power and a hardship, on such a slight ground as the existence of houses so few in number as less than ten, and those possibly dotted here and there and scattered all over an area, to proclaim an improvement scheme with all the elaborate procedure that it will

[*Maulvi Saiyid Muhammad Fakhr-ud-din; Mr. Bompas; Babu Bhupendra Nath Basu.*]

entail and the very large disturbance that it would create. Action of this nature has been deliberately discarded in England, and I submit that it should not be peremptorily imposed here.

"I have given the subject my careful consideration and I submit that, failing any alternative proposal from Government, when we are at the threshold of a new and untried system for Calcutta, we should be content—and on my own part I would in any event deliberately adopt the policy, if there are not more than ten houses affected—that such houses are put into a sanitary condition. And with that intention, I have on the list amendments that would carry on the object I have in view."

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN said :—

"Your Honour,—It seems that it would be very hard to the people of Calcutta if the whole area is placed under the general improvement scheme, if one or two buildings within that area are found unhealthy or unfit for human habitation Other steps might conveniently be taken to improve one or two particular buildings. Neither would it look fair nor would it be reasonable or sensible to declare the whole area, however large it may be, as unhealthy, and thereby put the entire population of that area to inconvenience, loss, and damage. I believe it would not be unfair if a certain limit of unhealthy and unsuitable buildings is fixed for every particular area. Where there are more than ten such buildings, improvement of the whole area may fairly be needed. Without dilating more upon the subject I should like to propose that the words 'that any buildings not less than ten in number within a certain area' be substituted for the words 'that any building in any area' in line 1, of clause 35 (*now 36*) (*a*)."

The Hon'ble MR. BOMPAS said :—

"Sir,—In this amendment also, I think that the Mover of the amendment has failed to attain the object which he has in his mind. His object is that the Trust should not proceed to declare as insanitary and to deal with, under the improvement scheme, an area in which the houses are practically to a great extent sanitary, but where a small minority can be held to be unfit for human habitation. But I do not think that his amendment, if carried, will effect his object. For he must not only limit the number of the houses, he must also limit the size of the area in which they are situated, before he can attain the object he has set before him. The precedent quoted from the English Act is really not in point. In London, under the London County Council, are a number of boroughs, and the provisions quoted by the Hon'ble Babu Bhupendra Nath Basu lay down rules for dividing works of improvement between the County Council and the boroughs. The County Council is only expected to undertake the larger works. I also submit that there is no real danger that the Trust will spend its money in destroying sanitary areas in Calcutta when there are so many plague-spots waiting for removal.

"The Bombay Act does not contain the proposed restriction, and had it done so practical inconvenience would have resulted, for, I think that I must be correct in saying that in some of the Bombay Improvement Schemes the area dealt with must have contained less of the huge and insanitary tenement houses which are found here. On these grounds I would ask the Council to reject the amendment. I even venture to ask the Hon'ble Member to withdraw it."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir,—I had almost thought that the uselessness of my amendment would be a recommendation in my favour, but we are in this position that when our amendments have some value they cannot be accepted; but when they are of no value again, they cannot be accepted. My hon'ble friend has not done me the honour of going through my amendments. If he would look at amendment No. 187 he will see that 'not exceeding 10 acres in extent' as regards the area; so that I tried somehow to meet the objection that my friend would

raise. Well, Sir, I cannot bring forward anything more than what has been said by the Hon'ble Mr. Apcar and the Hon'ble Babu Deba Prasad Sarbadhikari."

The Hon'ble MR. BOMPAS said :—

"May I suggest that the Trust will not deal with an area in which there is one insanitary house to the acre?"

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir,—I am very glad to hear that. My hon'ble friend asks us to take the Trust on trust, but I think the Trust cannot be taken on trust, and we want its powers to be limited and defined. However, at this time of the day, even a jaded horse must plead for respite, and I will not go on further. I would ask Your Honour to put the amendment to the vote."

A division was then taken with, the following result:—

Ayes 14.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

Noes 29.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler

The Hon'ble Mr E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lit.-Col. Grant-Gordon, I.M.S.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din

The Hon'ble Mr. T. R. Filgate.

[*Babu Bhupendra Nath Basu.*]

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Maharaja Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was, ayes 14, noes 29, and the motion was therefore lost.

The Council was then adjourned to Friday, the 18th August 1911, at 11 A.M.

CALCUTTA,
The 6th September, 1911.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

B. S. Press—27-11-1911—2432.I—600—C. A. P. and others.

Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Friday, the 18th August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR G. W. KÜCHLER.

The Hon'ble MR. L F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. F. L HALLIDAY, M.V.O., C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MR H. J. HILARY.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble LT.-COL. G. GRANT-GORDON, C.I.E.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble BABU BRAJ KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

THE CALCUTTA IMPROVEMENT BILL, 1911.

Clause 35 (now 36).

The following motions were, by leave of the President, withdrawn :—

178. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "not less than ten in number" be inserted after the word "buildings", in line 1 of clause 35 *(now 36)* (*a*).

179. The Hon'ble Mr. Apcar to move that the words "not less than ten in number" be inserted after the word "buildings", in line 1 of clause 35 (*now 36*) (*a*).

180. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "that any buildings not less than ten in

[*Babu Bhupendra Nath Basu; Mr. Bompas.*]

number within a certain area" be substituted for the words "that any buildings in any area", in line 1 of clause 35 (*now 36*) (*a*).

181. If either Motion No. 175 or Motion No. 176 be carried, the Hon'ble Mr. Apcar to move—

(1) that the word "that" and the words "in any area", in line 1 of clause 35 (*now 36*) (*a*), be omitted; and

(2) that the word "that" in line 1, and the words "in any area", in line 2 of clause 35 (*now 36*) (*b*), be omitted.

182. If neither Motion No. 175 nor Motion No. 176 be carried, the Hon'ble Mr. Apcar to move—

(1) that the words "within a certain area" be substituted for the words "in any area", in line 1 of clause 35 (*now 36*) (*a*), and

(2) that the words "within a certain area" be substituted for the words "in any area", in line 2 of clause 35 (*now 36*) (*b*).

183. If Motion No. 168 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "within certain limits" be substituted for the words "in any area", in line 1 of clause 35 (*now 36*) (*a*) and line 2 of clause 35 (*now 36*) (*b*).

184. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "within certain limits" be inserted before the words "in any area", in line 1 of clause 35 (*now 36*) (*a*).

185. The Hon'ble Babu Bhupendra Nath Basu to move that the word "specified" be inserted before the word "area", in line 1 of clause 35 (*now 36*) (*a*).

186. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the word "particular" be inserted before the word "area", in line 1 of clause 35 (*now 36*) (*a*).

187. The Hon'ble Babu Bhupendra Nath Basu moved that the words "not exceeding ten acres in extent" be inserted after the word "area", in line 1 of clause 35 (*now 36*) (*a*).

He said:—

"Sir,—The power of carrying out effective improvements under clause 35 (*now 36*) is limited to any area which the Trustees may think desirable should be taken up and dealt with under that Chapter. The Trustees may also take up groups of areas. I think it would facilitate the disposal of objections if we confined our operations to a certain limited area at a time. We give the people greater opportunities and give the Board greater facilities for dealing with these things, instead of taking up a very large area all at once, and, therefore, I think that my amendment, without in any way crippling the resources of the Trustees in regard to improvements which they wish to effect, will facilitate the work of procedure. In that view, I have put forward an amendment providing that the area to be dealt with for insanitary purposes should be limited to 'ten acres,' so that we may proceed step by step."

The Hon'ble Mr. Bompas said:—

"Sir—I oppose this amendment, on the ground that there is no precedent for such a provision either in the Bombay or in the English Act, and it is, as far as I know, a pure hypothesis of the Mover's own that ten acres or something less

than ten acres is a reasonable is to be dealt with at one time, and nothing over ten acres. It is difficult to know what will really be comprised in our improvement schemes, but I do not think that we can foresee in the least what, when the Trust comes to be advised by experts to undertake operations, will in practice be a convenient area, whether in regard to the engineering and sanitary conditions or with regard to the disposal of objections. I think it should be left to be worked out by the Board what area, in practice, will be the most convenient to deal with."

The Hon'ble MR. APCAR said:—

"You will observe, Sir, that, in Bombay, it is limited to 'certain limits. In the English Acts, it is 'a certain area,' and that has given rise to the proposal that now has been made. We have no definition of what the Board may do. It is only in order in some measure to limit their operations that this proposal has been made. Although the limit is fixed at ten acres, it does not mean that it would be the only area that would be taken, because there is power reserved to the Board to take any number of these areas consecutively, so that there will be no difficulty in working. Here we have no definition of what could be taken up as an unhealthy area. The Hon'ble Member has endeavoured to limit it in some degree, and I therefore support his proposal."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I wish, Sir, it were possible for the Government to accept this suggestion. I have made the suggestion in no spirit of putting any obstacle to the Board's action, but merely for the purpose of defining and limiting the Board's scope of operation. Under the Improvement Act, we can take any number of contiguous areas and deal with them block by block. Of course, ten acres is merely a limit, and I think that blocks of ten acres each would be a convenient method of dealing with areas."

The motion was then put and lost.

188. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and cannot be reasonably improved" be inserted after the words "are unfit for human habitation", in line 3 of clause 35 (*now 36*) (*a*).

He said:—

"Sir,—The reason for this amendment is that we desire, in the first instance, to give owners or occupiers concerned the chance of being able to do that which probably they could have been compelled to do under the existing law, and which, for reasons that we do not know, they may not have been called upon yet to do, which has added to the aggravation of insanitation. Section 441 of the Calcutta Municipal Act provides that, in the circumstances mentioned therein the Chairman may apply to a Magistrate to abate overcrowding, and, in other sections of the same Act, there are provisions that I need not refer to at length, under which it would be possible to take steps by which an insanitary building could be improved. That there has been neglect in the past, on the part either of the owners or the occupiers or of the sanitary authorities, ought not to be reason enough to take the drastic action contemplated under clause 35 (*now 36*) all at once. The Improvement Trust will have a long tenure of office, and the insanitary houses in Calcutta are so many and so widespread, that it would be too much of a hardship to begin widespread and unsparing operations at once, simply because of the existing insanitary conditions which those responsible did not correct betimes by availing themselves of the existing law. If power of compelling improvements was given to the Trust, as I believe my amendment would give, if carried, the work of the Trust would be easier. They could at once take up such hopeless blocks with regard to which no improvement is admittedly possible. To these they can apply their attention and energy to begin with; after all, the discretion would be in their hands, even if the words that I seek to introduce were introduced. Whether a building can be

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Rai Baikuntha Nath Sen Bahadur.*]

reasonably improved or not, would be a matter very much within their discretion. With due regard to all circumstances and in the exercise of such discretion, they could take the initial action of requiring improvements that have long been neglected, and where such improvements are altogether impossible, they could take the more drastic action. Such an option would be a decided facility, both to the Trust and to the people concerned, and I venture to hope, that it will appeal to the Government. The reserve power provided in this restriction will not hurt the Trust, but may benefit the people by giving them a chance of improving their properties."

The Hon'ble Mr. Bompas said:—

"Improvement schemes as provided for in Part I of the English Act or in this Bill, are meant for what the Hon'ble Member has appropriately described as hopeless cases. The essential preliminary of the improvement scheme is the decision that that is the most satisfactory way of dealing with certain evils. If those evils can be remedied by putting compulsion on individual owners then an improvement scheme is unnecessary. The power of dealing with what I may call the normal case of insanitary building is left with the Corporation, and I do not think that it will be popular with the people of Calcutta if two co-ordinate authorities were entrusted with the very drastic powers which are conferred on the Corporation by the Municipal Act."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"Sir,—The only observation I wish to offer in reply is that the provision, in such big type, 'the most satisfactory method of dealing with', in the clause, is not likely to have escaped even one who has not studied the English Act. No doubt, unless that appears to be the most satisfactory way of dealing with the situation, the Trust would be incompetent to take it up, but the safeguard we seek is of an extremely indefinite and general character. I am anxious to provide that all that can possibly be done in the way of improvement should in the first instance be exhausted; it can be done reasonably, cheaply and within a reasonable limit of time. This will not interfere with the exercise of the discretion of the Trust. All that I plead for is just a chance of effecting those improvements which have not been effected under the Calcutta Municipal Act and which the Improvement Trust, with its larger powers and its hanging sword of Damocles, would to a certain extent be able to enforce. But while enforcing the more drastic remedies in default of improvement, I wanted to give one more chance to the affected owners so that they might not altogether lose property which may be capable of improvement."

The motion was then put and lost.

189. The Hon'ble Rai Baikuntha Nath Sen Bahadur moved that the word "particular" be inserted before the word "area", in line 2 of clause 35 (*now 36*) (*b*).

190. The Hon'ble Rai Baikuntha Nath Sen Bahadur also moved that the words "or in any neighbouring buildings", in line 2 of clause 35 (*now 36*) (*b*), be omitted.

He said:—

"Sir,—I beg to move that the word 'particular' be inserted before the word 'area' in line 2 of clause 35 (*now 36*) (*b*) and the words 'or in any neighbouring buildings', in the same line of the same clause, be omitted. They are not precise and they seem to be of an ambiguous nature. Their elasticity would give rise to disputes and difference in construction. All legislative enactments ought to attempt to secure precision and certainty in language."

The Hon'ble Mr. Bompas said:—

"The amendments, as introduced by the Hon'ble Rai Baikuntha Nath Sen Bahadur, do not seem to be very important ones, but the reasons which the Hon'ble Member has advanced in support of them show that he has misunderstood the meaning of the clause. The word 'area' in that clause is

[*Babu Bhupendra Nath Basu; Mr. Apcar; Rai Sheo Shankar Sahay Bahadur; Rai Baikuntha Nath Sen Bahadur.*]

not an indefinite thing. An area is a thing which has definite limits. The justification for the clause as it stands is that it has existed for many years in the English law. Of course it is almost inconceivable that you should have an unhealthy area which would cause danger to the health of the inhabitants of the neighbouring buildings and not to the inhabitants of the unhealthy area itself. So there seems no harm in allowing the words to stand which the Hon'ble Member would omit. The clause, as it stands in the Bill, appears in the Bombay and the English Act, and it was fully discussed in the Select Committee, and I shall not take up the time of the Council in discussing it again now."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"So far as my knowledge of English goes, there seems to be some difference."

The motions were then put and lost.

191. The Hon'ble Mr. Apcar moved that the words "and bad arrangement and condition" be substituted for the words "and bad arrangements, or the insanitary condition", in lines 1 and 2 of clause 35 (*now 36*) (*b*) (*i*).

He said:—

"It is incongruous to have in (*b*) (*iii*) 'any other sanitary defects' with "insanitary condition' in (*b*) (*i*) That is not in the English Act. I beg to move this."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

192. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "and buildings" be substituted for the words "or buildings", in lines 2 and 3 of clause 35 (*now 36*) (*b*) (*i*).

193. The Hon'ble Mr. Apcar to move that the words "(such buildings not being not less than ten in number)" be inserted after the words "groups of buildings", in line 3 of clause 35 (*now 36*) (*b*) (*i*).

194. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that clause 35 (*now 36*) (*b*) (*iii*) be omitted.

195. If Motion No. 168 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "the Board are satisfied" be inserted after the word "and", in line 1 of the second paragraph in clause 35 (*now 36*).

196. The Hon'ble Rai Baikuntha Nath Sen Bahadur moved that the word "only" be substituted for the word "most", in line 1 of the second paragraph in clause 35 (*now 36*).

He said:—

"Sir,—I beg to move that the word 'only' be substituted for the word 'most' in line 1 of the second paragraph in clause 35 (*now 36*). I think by this alteration greater precision would be secured and ambiguity would be avoided."

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR said:—

"The next motion, standing in my name, is of an identical character with the amendment just proposed, and therefore I beg to say a few words in support of it.

[*Mr. Bompas.*]

"Sir, this portion of the clause refers to that stage when the fact of the insanitary condition of any area is established to the satisfaction of the Board and when it is considering the merits and demerits,—the advantages and disadvantages of a general Improvement Scheme as compared with any alternative method of avoiding the evil. Under this clause a general Improvement Scheme is to be framed *if it is the most satisfactory method* of dealing with the evil.

"Sir, under the language of this clause the Board will have the power to reject all alternative methods of dealing with the evil, even though they may be effectual. The criterion here laid down is that such alternative methods must be *better than* an Improvement Scheme. It is not sufficient if they are simply effectual. This, I submit, is a very large order. It means that the Board will have to frame a general scheme in each and every case of insanitary area, because in all such cases a general Improvement Scheme will, I think, be the 'the most satisfactory method of dealing with the evil.' I shall be told that the Board must be credited with intelligence, and that if there be any alternative practicable method which can effectually deal with the evil, the Board will not reject it. But my submission is that your mandate, your order to the Board, as is evident from the language here used, is that unless and until such alternative method *is better or more satisfactory* than a general Improvement Scheme, it has the power to frame it. You do not use the words '*most feasible method*' nor '*most practicable method*' nor '*most reasonable method*', you use the words 'most satisfactory method.'

"In the Bombay Act we have the words 'and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme.' The Bombay Act recognizes that a general Improvement Scheme should only be framed if there is no other method of dealing with the evil. It recognizes that, considering the hardship to the people, the expenses involved, the limited resources of the Board, the general Improvement Scheme should be adopted only as a last step. Our Bill, on the contrary, lays down that the Board may always frame a general scheme unless some method, *better or more satisfactory* than an Improvement Scheme, exists. While the Bombay Trust will stay its hands and refuse to frame a general scheme—if there exists a method, though not so satisfactory as a general Improvement Scheme, but still satisfactory for all practical purposes,—the Calcutta Trust will be entitled to proceed with the general scheme unless the alternative method is better or more satisfactory than a general scheme. The net result is that, while in Bombay a general Improvement Scheme is to be adopted only when it is absolutely necessary and when all other remedies fail, in Calcutta it will be framed in almost every case of insanitation. Is this fair? Is this just? Is it necessary? I submit not. I anticipate the Hon'ble Member in charge of the Bill will say, 'these words are not coined by us but we have simply borrowed them from the English Act, the framers of which Act are supposed to know the effect of the words they use.' True, they are so borrowed, but in our Bill the conditions of things are different, and there they have other safeguards which are wanting in our Bill. If we had adopted the English Act in its entirety, there would have been some force in this argument of the Hon'ble Member. But what has been done here is really this: that whatever expressions have been found in the English Act or in the Bombay Act as giving larger powers and larger jurisdiction to the Board, they have been adopted, and all expressions laying down restrictions and safeguards appearing in those Acts have been omitted. So we have to read our Bill as it stands and have to be satisfied if the provisions therein inserted can, as a whole, be supported by the laws of justice, equity and good conscience, and the Council should not pass it blindly because some expressions contained in it are borrowed from one statute and some from others. I beg to support the amendment, which in effect is identical with the amendment standing in my name."

The Hon'ble MR. BOMPAS said:—

"Sir,—I think I can clear any doubt that may exist in the Hon'ble Member's mind as to the advisability of this drafting. It is true that the

words in the Bombay Act are that the evils could not be effectually removed otherwise than by any Improvement Scheme. The Bombay Act was passed in 1898, and took these words from the English Act of 1890, which was then in force. The English Act came up before Parliament after 19 years' experience of its working and was revised in 1909, when Parliament modified it and put in the words 'the most satisfactory way,' etc. It is practically difficult to say that the evils cannot be remedied except by an improvement scheme. As I said before, a general conflagration might be a very effectual remedy. The wording of the section thus merely gives lawyers an opportunity for raising quibbles. For practical purposes, what we want to know is whether, looking at the displacement of the population, at the heavy expenditure involved and at the alternative remedies that might be applied by dealing with individual houses—whether from a business point of view a general improvement scheme is on the whole the best remedy available. I think we can profit by the 19 years' experience of the working of the English Act, and leave the words as it appears in the Bill intact"

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

197. If Motion No. 168 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "only effectual" be substituted for the words "most satisfactory", in line 1 of the second paragraph in clause 35 (*now 36*).

198. The Hon'ble Mr. Apcar moved that the word "and" be substituted for the word "or", in line 2 of the second paragraph in clause 35 (*now 36*).

The motion was put and agreed to.

199. The Hon'ble Mr. Apcar moved that the words "if satisfied as to the sufficiency of their resources" be inserted after the word "Board", in line 1 of the third paragraph in clause 35 (*now 36*).

He said:—

"Will not the Hon'ble Member in charge accept this? If he does not, then it is hopeless."

The Hon'ble MR. BOMPAS said:—

"No, unless you convince me by your speech."

The Hon'ble MR. APCAR said:—

"Sir,—I do not understand why there is this objection taken. After all it is only a reasonable request that the Board should be satisfied of the sufficiency of their resources. All we seek is that it should be incorporated in the law in order that the Board might have their attention drawn to this particular point, and not that matters should be left absolutely to the discretion of the Board. The Hon'ble Member has been referring to the precedents in the English Acts, some details of which have been accepted, and this amendment distinctly follows that precedent. I think that it is a wise provision that the Board should make it their first study to see whether their resources are sufficient. Supposing there are many competing schemes and representations that have been made, then the Board will come with a scheme of their own, the last of all, and may try to force on their own in their zeal, to have their own accepted or put into operation and, therefore, I say it would be wise for the Board to be required to see in the first instance whether their resources are sufficient. I am not asking for anything which is not included, and which is not thought necessary, in the English Acts.

[*Maulvi Saiyid Muhammad Fakhr-ud-din; Babu Bhupendra Nath Basu; Mr. Bompas.*]

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN said:—

"Sir,—I beg to support the amendment."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—this is not merely a lawyer's quibble, though I am bound to say that lawyers consider themselves to be as practical men as others who do not profess to have any acquaintance with law, but who, unhappily for us, happen to administer our law. Apart from that, what is it we are following? My friend, the Hon'ble Rai Sheo Shankar Sahay Bahadur, is put down by the statement that 19 years' experience of an English Act ought to satisfy him; surely that ought to satisfy him, and it would satisfy all of us if it also satisfied my hon'ble friends on the other side. Just now, when the Hon'ble Mr. Apear was rising to move his amendment, he inquired if that would be adopted, and my hon'ble friend said that if he was convinced by the Hon'ble Mr. Apear's speech, he might accept it. I have seen, however, in many cases that men who come to scoff do something else. That might be the attitude of my hon'ble friend opposite, and therefore I hope that the arguments that have been advanced may convince my hon'ble friend, for the Bombay Act, which followed the earlier English Act of 1890, had specially provided that improvement schemes should only be taken up when there were sufficient resources. Well, I believe my hon'ble friend will be able to corroborate me when I say that, in some instances at least, the Bombay people went beyond their depth, like little children that swim on bladders, and the English Act, when revised in 1909, expressly retains that provision. Well, if a safeguard like that is thought necessary for English public bodies, with all the safeguards that are otherwise provided for the operations of such bodies—a strong public opinion, a much more enlightened public spirit and a larger element of non-officials represented on it, away from the secrecy of bureaux.—I think it is necessary that the same safeguard at least should be provided for the Indian Trustees that are going to be created. Why is it that it is said that the safeguard is not necessary? There must be an explanation as to why we depart from well-laid courses which experience in countries which have dealt with these measures has dictated. I have heard no argument except the same statement that we do not choose to follow the English precedent. In the absence of any arguments, convincing or otherwise, and in the presence of these strong precedents in Bombay and England and of the necessity that there must be some safeguard to extravagant operations on the part of the Trustees, I think my hon'ble friend's amendment ought to be accepted."

The Hon'ble MR. BOMPAS said:—

"Sir,—I resist this amendment because it does not seem to me that the words can properly be inserted in the clause. The words in the Bombay Act and the English law refer to the case of the local body to which an official representation has been made by the Corporation or by a Health Officer that a certain area is unhealthy, and the law lays down a duty upon that local body to make an Improvement Scheme unless it shows cause to the contrary. Then one very good cause which can be shown is that it has not got funds enough. Therefore, it is stated that when an official representation is made, the local body will proceed to frame an Improvement Scheme if it has got the money. If it had not the money then it would be a good answer against the scheme being framed. Now, clause 37 (*now 38*) of this Bill deals with official representations, and provides that the Trust must give its reasons if it does not act on an official representation. Clause 35 (*now 36*) gives power to the Trust to act otherwise than on an official representation. But it is evident that the Trust will not trouble to frame schemes if it has not got the money with which to carry them out. The Hon'ble Babu Bhupendra Nath Basu anticipated that the Trust, owing to its having such a number of Government nominees on its Board, would not judge so correctly the extent of its resources as an English public body. I do not know why he is so prejudiced against Government nominees. I believe that he himself sits as a Government nominee in this Council. After

[*Mr. Apcar.*]

all there are only five nominees out of eleven members of the Trust, and surely the Trust as a whole will be as competent to consider the extent of its resources as an ordinary English municipality.

The Hon'ble MR. APCAR said:—

"Sir,—The Hon'ble Member will remember that this expression existed in the original Bill and was deliberately excluded from clause 37 (*now 38*) in Select Committee, and it was on account of this exclusion that this proposal has been made. It is not only with regard to clause 37 (*now 38*) that we want it included. Your Honour will see that the only question is whether or not, on an official representation, the scheme shall be framed forthwith: the whole point there is that it is to be framed forthwith on official representation, and no other. I submit that it is a proposal that ought to be accepted, and the Board ought to consider not merely official representations, but also all questions relating to improvement schemes, whether the outcome of official representation or not. I think it is most important for the Members of the Board, when there are various competing schemes, to see whether they have resources sufficient to cover them, and which of them."

A division was then taken, with the following result:—

Ayes 17.	*Noes 28.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. E. W. Collin.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. C. J Stevenson-Moore
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. T. Butler.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. Saiyid Wasi Ahmad.	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.	The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. S. L. Maddox.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Mr. B. C. Mitra.
The Hon'ble Babu Braj Kishor Prasad.	The Hon'ble Mr. G. W. Kühler.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Mr. L. F. Morshead.
The Hon'ble Babu Bal Krishna Sahay.	The Hon'ble Mr. C. H. Bompas.
	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
	The Hon'ble Mr. C. E. A. W. Oldham.
	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr. F. H. Stewart.
	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
	The Hon'ble Mr. T. R. Filgate.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

[*Mr. Apcar; Mr. Bompas; Babu Bhupendra Nath Basu.*]

The result of the division was, ayes 17, noes 28, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

200. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "is satisfied as to the sufficiency of their resources" be inserted after the word "Board", in line 1 of the third paragraph in clause 35 (*now 36*).

201. If Motion No. 168 be not carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "if their resources permit" be inserted after the word "Board", in line 1 of the third paragraph in clause 35 (*now 36*).

202. The Hon'ble Babu Deba Prasad Sarbadhikari to move that, after the word "Board", in line 1 of the third paragraph in clause 35 (*now 36*), the following be inserted, namely:—

> after making proper inquiry and inspection, on notice to the parties concerned, and if satisfied of the sufficiency of their resources.

203. The Hon'ble Mr. Apcar moved that the word "shall" be substituted for the word "may," in line 1 of the third paragraph in clause 35 (*now 36*).

He said:—

"Is this accepted?"

The Hon'ble MR. BOMPAS said:—

"I do not accept it."

The Hon'ble MR. APCAR said:—

"It will not matter because the 'may' is really 'shall'. The Member in charge says he has consulted legal opinion on questions that arise, but we have in Council a legal adviser of Government, and I am within my right to ask what he would say, and if he agrees with me, it would be well if the amendment was made. It is 'shall' for the reason that there is a duty imposed on the Board to be performed, and where the facts are sufficient for the exercise of the duty, then whatever has to be performed shall be performed. I only desire that we should have that word clearly placed before the Board who may not be quite as conscious of the force of that word 'may'. I propose my amendment on that ground."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—I have a similar motion. In this one instance I find we are more insistent than the Government because we say that if these things are existent, namely, the insanitary houses, insanitary buildings, bad arrangement of houses, and if the most satisfactory way of dealing with them is by framing an improvement scheme, the Board shall frame an improvement scheme. In doing that we follow precedent in the Housing of the Working Classes Act, 1909 (58 & 54 Vic., cap. 70, section 4), which lays down that if a certain state of things is found to exist, the Board shall pass a resolution to the effect that such area is an unhealthy area and that an improvement scheme ought to be made in respect of such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area.

"Therefore we have not been, as my hon'ble friend unjustly accuses me of, harbouring suspicion against Government officials; there is no other

suspicion than this, that people who deal with other peoples' money are not apt to be so careful as those whose money they spend, that is, those who contribute money in the shape of taxes. They are not so careful about the consideration of various questions as popular representatives, that is, those who represent the people, who in the end have to bear the burden. That is a reason why we say that there ought to be 'shall' and not 'may'; and, though I have the misfortune of being a Government nominee in this Council, I still venture to make that suggestion. Though I do not speak in any personal sense, and though I say so who should not say it, the Government, even like the trappers in the Australian wilds, do sometimes hit upon something that is valuable, in its search for what it desires to attain. I do not for a moment put myself down in the same category as the valuable find which an Australian bush-ranger may light upon, but I may fairly claim that the Government after all does sometimes stumble upon a good choice. But apart from that, Sir, I venture to make this suggestion for what it is worth."

The Hon'ble MR. BOMPAS said:—

"Sir,—I resist this amendment because the substitution of the word 'shall' for 'may' would have been proper if some of the previous amendments had been carried. The English and the Bombay precedents would have been in point in that case, but as the clause stands in the agenda, it seems to me inappropriate. Under the English and the Bombay laws, as I said before, the local authority must act on official representations unless it adduces sufficient excuse for not doing so. But clause 35 (*now 36*), as it stands in the Bill, not only mentions official representations, but says that whenever it appears to the Board that an area is unhealthy, it may frame an improvement scheme. It seems to me most impracticable and unbusinesslike that the Board should prepare Improvement Schemes if it knows that it has not yet sufficient funds with which to execute them. That is the difference I submit between the precedent cited and our clause as it stands, and which renders the amendment undesirable. Of course, it is conceivable that in law, as the Hon'ble Mr. Apcar says, 'may' shall mean 'shall', but I submit that there is a greater chance of 'may' meaning 'may', if we have it in the clause, than of 'shall' meaning 'may', and I submit that the clause as it stands is permissive."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I do not know, Sir, whether to read an underlying tone of regret on the part of my hon'ble friend in charge of the Bill that some of the previous amendments have been lost. If so, I hope he will be more careful in the future in his hasty opposition to the amendments. It is never too late to mend. During the first two days of the debate my hon'ble friend had confined himself merely to indicating his opposition to the amendment or taking upon himself to say that he could not advise the Government to accept the particular amendment in order to have the amendments defeated. As I say it is never too late to mend, and this morning when we opened a new Chapter, my hon'ble friend positively undertook to clear up the doubts of my hon'ble friend Rai Sheo Shankar Sahay Bahadur. We were not without hopes, therefore, that as we proceeded, the process of mending would advance. Sir, if it is conceded that the bounden duty of the Trust would be to do something after all these materials are collected and placed before them, would it be right to let the Trust alone? My hon'ble friend was filled with indignation the day before yesterday at the idea of the possibility of the Trust getting all these huge sums of money in its own hands and not being able to give a good account of itself to Government, if for lack of official representation it could not find work enough to engage itself in. Would it not be a more appalling state of affairs, if after all the materials were collected and all the resources were available, the Board were to say to themselves, it is not obligatory upon us to devise any scheme or to carry on any work of improvement. We shall be told that the Trust is a body of practical business men, endowed with sense and discretion, and that those who desire to bring in any hedging restrictions

with regard to its powers are unpractical and unbusinesslike. But if we have provided in this Act all that the Trust is entitled to and more, as we have already done, have we no right to say that when all the antecedent requisitions are strictly complied with, the Trust will have no further option in the matter, but shall proceed to do what the Trust is intended to do? That is the whole purpose of the amendment.

"It was said in connection with another amendment, Sir, that the necessity of providing a safeguard as to the Board being satisfied regarding its resources need not be insisted on, because the Board would not be answerable to any one as the English local authority would be under the English Statute and as the Bombay Trust unfortunately is. But if we look at clause 37 (*now 38*), the Board has certain obligations with regard to the matter of a distinctly unpalatable kind. If the Board and the Corporation happen to disagree and the matter has to go up before the Local Government, there is still a residuum of that unpalatable element, and so long as that exists, the way of the Board is possibly not as clear as might have been wished. Be that as it may, what possible objection or difficulty can there be in the way of providing that if the elaborate ceremonial that is provided for in this Act has been completely gone through, the Board shall have no right to say that it has discretion and option in the matter and that it will not go forward. In this view of things and also having regard to that legal aspect of the question which has been put forward, I think it is of the greatest importance that this slight modification should be made—slight no doubt in appearance but far-reaching in effect."

The Hon'ble Mr. Apcar said:—

"Sir, the position is that the Board need not make any inquiry; they need not consider whether or not they have a sufficiency of resources, but they have to say whether or not the most satisfactory method of dealing with certain complaints that reach them is an improvement scheme, and when they have arrived at a conclusion that the most satisfactory method is to frame an improvement scheme, then the Board are to use their discretion whether or not they will pass a resolution to that effect. My hon'ble friend has referred to various Hon'ble Members as to their not being able to appreciate the meaning of the Act, but may I say here that there is a failure to realize what the duty imposed upon the Board is? I am not concerned so much as to any excuse to the Corporation for any official representation not being accepted. My object is that an obligation should be created when the Board go so far as to say that an improvement scheme is the most satisfactory method of dealing with certain complaints, not to stop short there but to pass a resolution to that effect. I think that it is failing at the critical point. It was with some effort in Select Committee that even the question of passing a resolution was included. I think, Sir, it is imperative that it should have been done in the interest of the public, and now I feel more strongly than before, when it is insisted by the Hon'ble Member in charge that after they have decided that an improvement scheme is the most satisfactory method of dealing with the evils complained of it is a matter of discretion whether the Board need pass a resolution or not. I feel more impelled than before to press that it should be brought home to the Board that their duty is that they shall pass a resolution, not to be able to answer the Corporation, but in order that their duty to the public should be made clear. That is the reason why I have proposed this amendment, and I press it."

A division was then taken, with the following result:—

Ayes 15.	*Noes 30.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
	The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Mr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Mr. T. Butler.
The Hon'ble Mr. E. T. Chapman.
The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. B. K Finnimore.
The Hon'ble Mr. S. L. Maddox.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr. G. W. Kuehler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Lieutenant-Colonel Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. F. H. Stewart.
The Hon'ble Mr. W. J Bradshaw.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din
The Hon'ble Maulvi Saiyid Zahir-ud-din
The Hon'ble Mr. T. R. Filgate

The following members were absent:—

The Hon'ble Maharaja Sir Prodoyt Kumar Tagore, *Kt.*
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The result of the division was Ayes 15, Noes 30, and the motion was therefore lost.

The following motion was, by leave of the President, withdrawn :—

204. The Hon'ble Babu Bhupendra Nath Basu to move that the word "shall" be substituted for the word "may," in line 1 of the third paragraph in clause 35 (*now 36*).

205. The Hon'ble Mr. Apcar moved that after the words "such area," at the end of the third paragraph in clause 35 (*now 36*), the following be inserted, namely:—

and shall forthwith communicate such resolution to the Corporation.

He said:—

"Your Honour will see that there is an obligation to communicate a resolution under section 37 (*now 38*) to the Corporation, when the Board have received an official representation and have decided that an improvement scheme is necessary. But there are other considerations which may lead to an improvement scheme being framed, and if a resolution has been passed to that effect and when an improvement scheme is pending, I think, Sir, it is necessary that a body like the Corporation should be informed without delay.

[*Mr. Bompas; Mr. Apcar.*]

It is not enough to say that the Corporation have members on the Board or that the Chairman may be a member; there will be no proper information placed before the Corporation such as in all official matters is thought necessary. It may be in the information of individual Members of the Corporation, but they do not represent the Board on the Corporation. The Corporation are entitled to be informed officially that an improvement scheme has been framed, whether it is with regard to an official representation, that has been presented through them, or whether it is on a complaint that has come from the Health Officer or from 25 rate-payers or has been considered independently of the Corporation. I, therefore, think that this amendment ought to be accepted."

The Hon'ble MR. BOMPAS said:—

"I quite agree with the Hon'ble Mr. Apcar that it is desirable that when an improvement scheme has been framed, the fact should be communicated to the Corporation. And if he will look at clause 42 (*now 43*) of the Bill, he will see that when an improvement scheme has been framed, the Board will bring the fact to the notice of the Chairman of the Corporation. So far it is right, but the amendment proposed by the Hon'ble Mr. Apcar has a totally different effect and seems to me to be dangerous. It proposes that the Trust, when it sets to work to prepare an improvement scheme, shall proclaim the fact from the housetop by informing the Corporation. The Hon'ble Member must know that there are many land speculators who will be very glad to know where an improvement scheme is contemplated. And it is desirable that the matter should be kept as much confidential as possible. Because otherwise the speculators will try to raise greatly the value of the land. When an improvement scheme is ready, the Bill provides for inserting advertisements in newspapers, but when it is under consideration, it is most desirable, that so far as the public are concerned, the utmost secrecy should be observed."

The Hon'ble MR. APCAR said:—

"Sir, I endeavoured to intervene to explain that a mistake had been made so as to afford the Hon'ble Member an opportunity of correcting his speech in order to be able to meet my remarks. As for secrecy, does the Hon'ble Member intend to go back on what was said by himself before the Bill was referred to Select Committee, that we could not hope to maintain secrecy with regard to the proceedings in the Board? In clause 37 (*now 38*) it has been provided that the Board shall decide whether a general improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the Corporation. That again would be letting in all sorts of people into the knowledge of what is going on. My endeavour is to make the Board work hand in hand with the Corporation, and if there is any resolution with regard to any matter relating to an improvement scheme, to let the Corporation know of it."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

206. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that after the words "such area," at the end of the third paragraph in clause 35 (*now 36*), the following be inserted, namely:—

> and shall communicate such resolution to the Corporation.

207. The Hon'ble Mr. Apcar moved that the word "shall" be substituted for the word "may", in the last line of clause 35 (*now 36*).

He said:—

"Sir, it will be observed that this amendment was dependent on the Board having come to a conclusion that they have a sufficiency of resources, and that

[*Babu Bhupendra Nath Basu; Babu Deba Prasad Sarbadhikari; Mr. Bompas; the President.*]

was a reason why this amendment was proposed. Inasmuch as that particular amendment has been thrown out, I do not desire to press this amendment."

The motion was then, by leave of the President, withdrawn.

208. The Hon'ble Babu Bhupendra Nath Basu moved that the following be added at the end of clause 35 *now 36*, namely:—

> If the Board decide that it is not necessary or expedient to frame a general improvement scheme forthwith, they shall inform the Corporation of the reasons for their decision.

He said:—

"I suppose, Sir, it is no longer necessary. I gave notice of this motion in the belief that some of our amendments would be carried. But as the Hon'ble Mr. Bompas points out that clause 35 (*now 36*) embraces official representation, etc., I do not think it is necessary for me to press this amendment. I would, therefore, withdraw it with Your Honour's permission."

The motion was then, by leave of the President, withdrawn.

209. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the following be added at the end of clause 35 (*now 36*), namely:—

> Provided that no scheme shall be framed in pursuance of clause (*a*) with reference to any buildings or group of buildings without giving the parties concerned an opportunity of improving them.

He said:—

"I shall take Your Honour's ruling as to whether it is still open to me to move this amendment. I am afraid it covers the same ground."

The Hon'ble Mr. Bompas said:—

"Amendment 188 seems to cover this, Sir."

The PRESIDENT said:—

"It covers practically the same ground and therefore it fails."

The motion was then, by leave of the President, withdrawn.

Clause 36 (now 37) (1).

210. The Hon'ble Babu Deba Prasad Sarbadhikari moved that for clause 36 (*now 37*) (*1*) the following be substituted, namely:—

> 36. (*1*) An official representation referred to in section 35 (*now 36*) may be made—
>
> (*i*) by the Corporation—
>
> (*a*) of their own motion, or
>
> (*b*) on a written complaint by the Health Officer of the Corporation, or
>
> (*ii*) in respect of any area comprised in a Municipal ward, on a written complaint signed by twenty-five or more residents of such ward who pay either the owner's share or the occupier's share of the consolidated rate leviable under the Calcutta Municipal Act, 1899.

He said:—

"Sir, in this amendment I seek to make the scope of the official representation a little more clearer than has been provided in clause 36 (*now 37*). So far as the Corporation is concerned, I do not wish to disturb the state of affairs, for the Corporation under the amendment would make the representation of their own motion or on a written complaint by the Health Officer of the Corporation, both under the clause as drawn and as amended. The only amendment that

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Mr. Apcar.*]

I seek to introduce is with reference to sub-clause (*c*) of clause 36 (*now 37*). The clause as it stands makes it possible for residents who are liable to pay either the owner's share or the occupier's share to make a complaint. I seek that those who actually pay and not the defaulters, should have the right of making this requisition. My amendment proceeds a little further in, that it omits sub-clause (*2*). The result of that would be that if there was a representation by 25 rate-payers, it should be possible for that representation to proceed on to the Trustees without the intervention of the Corporation. I do not know whether this will appeal to the hon'ble representative of the Corporation on this Council or not. What is provided in this clause is that the intermediary intervention of the Corporation should be done away with, and the elaborate process of their having to transmit the representation to the Board in case they do not desire to make an official representation should be avoided. This would be a slight way of expediting official representation in cases where there is public spirit enough among rate-payers to take the initiative of their own motion. It is not a distrust of the Corporation that actuates this amendment, but it is a desire to expedite official representation, and I hope that it will be acceptable to the Council."

The Hon'ble MR. WHEELER said:—

"I have had some difficulty in following the Hon'ble Member's reasons for the amendment. As he told us eventually, its net effect is to confer upon 25 or more rateable residents of a ward the power to make an official representation, and he says that he desires to do so in order to expedite business. This, however, is going further than either the Bombay or English precedents, and I think would have results which, possibly, he does not anticipate. In Bombay 12 or more rateable residents can make a complaint to the Municipal Commissioner, and the latter makes a representation to the Board. Under the Bill, they make it to the Corporation, and the latter must inform the Board if they decline to forward it, and therefore the net result is very much the same in both cases. There is no danger of any representation not reaching the Board. As the clause stands it only passes through the Corporation, and to that extent I should say it enhances the position of the Corporation, from which I should not imagine the Hon'ble Member desires to detract. Under the Housing of the Working Classes Act, an official representation is made by the Medical Officer of Health, and all that 12 or more rateable residents can do is to complain to him, with an appeal to the Local Government Board. It is scarcely desirable to give too widely the power to make an official representation. The Board *must* consider such a representation, they *must* come to a decision, and they *must* inform the Corporation of their finding, together with their reasons if they decline to act. In the event of their refusing to act, there is an appeal to the Local Government. I presume that the Hon'ble Member desires to attach all these results to an official representation from 25 rate-payers, as otherwise there is no object in his amendment. But to call a representation from 25 rate-payers official is a misnomer. If the Board is to be liable to be bombarded with representations from any group of 25 irresponsible people, it may result in a most undesirable waste of their time, and the object of expediting business does not appear to call for the amendment, which is opposed to both the English and Bombay precedents."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, if I may say so without presumption, the explanation of the Hon'ble Mr. Wheeler appears to be eminently satisfactory, and I desire to withdraw this amendment. That, I presume, will not debar me from moving amendment No. 212.

The motion was then, by leave of the President, withdrawn.

211. The Hon'ble Mr. Apcar moved that clause 36 (*now 37*) (*1*) (*b*) be omitted.

He said:—

"Sir, I do not propose to press this amendment, and, if your Honour will permit me, I shall state my reason. It is this. I was not in favour of the Corporation having the power that is here conferred on them, because I think that medical representation ought to precede any action by them. I recognize however that there is a distinction between the Corporation taking action and the Board, as the Corporation will not have the final decision in any question. It will be for the Board to decide so that they are not really in the same sense judges in their own cause, and, therefore, I withdraw this amendment."

The motion was then, by leave of the President, withdrawn.

212. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "are liable to", in line 3 of clause 36 (*now 37*) (*1*) (*c*), be omitted.

He said:—

"Sir, I indicated the reasons of this amendment in connection with the previous amendment. It is a privilege, the right of being able to make a complaint, and I think that defaulters ought to be rigidly excluded from enjoying that privilege. It often happens that the defaulters are the loudest of complainants, and they ought to be kept out. That is the reason why I seek to take out these words."

The Hon'ble MR. WHEELER said:—

"Sir, I venture to doubt whether the amendment would be an improvement, and it seems to be open to misconstruction. At present the clause gives the right of making an official representation to 25 rate payers who are liable to pay rates. The proposal is that we should omit the words 'are liable to,' and should confer the right upon rate-payers who 'pay' either the owner's share or the occupier's share of the consolidated rate. But what is meant by the word 'pay'? Is it meant that they 'ordinarily pay,' or that 'they will pay if asked' or that 'they are prepared to pay'? If so, the sense is closely akin to that of the present draft. If the Hon'ble Member desires to debar those who are in arrears, he should propose the substitution of some such words as 'who *have paid*,' but then there might arise the difficulty that the rerpesentation was made at a time when the current demand was not yet due. The wording of the clause, as it stands, follows section 24 of the City of Bombay Improvement Act and section 5 of the Housing of the Working Classes Act. In the latter it is 12 or more persons liable to be rated who can invoke the intervention of the Medical Officer of Health. The object of the clause is to ensure that the persons making the representation are of some standing. This would follow to some extent from the fact that they possess rateable properties, and they may be given the benefit of the doubt, and it may be assumed that they will pay their rates when required to do so. It scarcely seems necessary to alter the clause in the manner proposed."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, if there is likely to be any ambiguity, I should not personally like to introduce any such risk in the framing of the clause, and I do not wish to press for it."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

Clause 36 (now 37) (2).

213. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 36 (*now 37*) (*2*) be omitted.

[*Mr. Apcar; Mr. Bompas.*]

214. If Motion No. 211 be carried, the Hon'ble Mr. Apcar to move that the words "clause (*b*) or", in clause 36 (*now 37*) (*2*), be omitted.

215. The Hon'ble Mr. Apcar moved that the word "Board" be substituted for the word "President", in line 4 of clause 36 (*now 37*) (*2*).

The motion was put and agreed to.

Clause 37 (now 38).

The following motion was, by leave of the President, withdrawn:—

216. The Hon'ble Babu Bhupendra Nath Basu to move that clause 37 (*now 38*) (*1*) and (*2*) be omitted.

216A. The Hon'ble Mr. Apcar moved that the words "and every other representation made under section 35" (*now 36*) be inserted after the figures "36", in line 2 of clause 37 (*now 38*) (*1*).

He said:—

"Your Honour, I desire that there should be consideration given to the point whether or not an improvement scheme is to be framed forthwith, not merely with reference to an official representation, because I think that there should be an obligation on the Board to consider in all questions, whether on an official representation or not, if an improvement scheme should be framed forthwith or not. I do not understand why the Board should be permitted this latitude, so that they need consider whether the scheme shall be framed forthwith only when there is an official representation. I think, Sir, there ought to be consideration of that question with regard to each scheme. The Act is framed in the public interest, and whenever an area is declared unhealthy I think that in the public interest steps ought to be taken in order to see whether or not there should be an improvement scheme framed forthwith."

The Hon'ble Mr. Bompas said:—

"I oppose this amendment, Sir, because I do not think that it is possible to insert the words in the clause, as proposed by the Hon'ble Member. If he looks at clause 35 (*now 36*), he will find that the representation mentioned there is only an official representation."

The Hon'ble Mr. Apcar said:—

"It does not exclude other representations, and there may be other representations made."

The Hon'ble Mr. Bompas said:—

"It does not exclude other representations, though it does not mention them. Official representations coming from and through the Corporation will deserve that serious consideration of the Trust, but to make it compulsory by law that every chance representation received by post should be treated in the same way, seems to me quite impracticable."

The Hon'ble Mr. Apcar said:—

"Sir, although this amendment was originally framed with a view to an amendment I proposed in this connection, yet it is not confined to that amendment, because the Board have the power to consider any representation made. If they proceed without any representation, this amendment would not have any effect. If however they come to a conclusion that a representation requires consideration, I think that in the public interest they ought

to proceed to see whether or not they should frame an improvement scheme forthwith."

The motion was then put and lost.

217. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din moved that the words "if satisfied as to the truth thereof and as to the sufficiency of their resources" be inserted after the word "and", in line 2 of clause 37 (*now 38*) (*1*).

He said:—

"Your Honour, the matter of this amendment has already been discussed in connection with clause 35 (*now 36*). The Hon'ble Member in charge was pleased to tell us that the said amendment was altogether improper and inappropriate so far as clause 35 (*now 36*) was concerned, and that the proper place for that amendment was in connection with clause 37 (*now 38*). I therefore hope that the Hon'ble Mr. Bompas will not oppose this amendment.

"The amendment itself is simple. It consists of two parts: (1) the Board should be satisfied as to the truth or otherwise of the grounds of official representation by the Corporation, and (2) the Board should be satisfied as to the sufficiency of their resources. Though the latter is more important than the former, yet the former one is essentially necessary. What we are anxious for is that the Board have to make an independent inquiry as to whether the grounds are such as to engage their attention forthwith, or as to whether there are other more important and urgent measures in hand at the time, and the Board should wait to pass the resolution or to frame the scheme of improvement.

"I know that the intention of the framers of the Bill is not to ignore these two important things. But I submit, Sir, that the clause should be so couched that the intention may be patent from the wording of the clause and may not be hereafter a bone of contention.

"With these few observations, which are only supplemental to what has already been said and fully discussed in connection with the similar amendment in clause 35 (*now 36*), I beg to move my amendment."

The Hon'ble Mr. Bompas said:—

"I took a rather benevolent attitude towards a similar amendment introduced on clause 35 (*now 36*), because obviously these are considerations which must weigh with the Board in determining whether a scheme should be framed or not: they may be expressly mentioned, and if sufficient members consider it worth while, I should be willing to accept the amendment. But the difficulty is that the amendment, as it stands, makes nonsense of the clause. This clause 37 (*now 38*) has been considerably modified since it was introduced in Council, solely with the idea of making it more fair and satisfactory. As it was introduced in Council, we said that the Board should consider every official representation, and if the Board were satisfied as to the sufficiency of their resources and decided to make an improvement scheme, they should send intimation of the fact to the Corporation, and if they did not send any intimation within twelve months of getting an official representation, the Corporation could refer the matter to the Local Government. But we found that no provison was made for the case of the Trust differing from the Corporation as to the necessity for a scheme. That the Trust should simply differ from the Corporation, and should be under no obligation to inform it of the fact or to give the Corporation its reasons was thought undesirable, and so the clause was recast, and it was provided that if an official representation came to the Board, they had to decide whether a general improvement scheme should be framed to carry that representation into effect forthwith or not, and intimate the decision to the Corporation. But if the clause is amended in the way suggested by the Mover, the words will not make sense. What the

[*Babu Bhupendra Nath Basu; Mr. Bompas; the President.*]

Hon'ble Member means is that if they are satisfied of the sufficiency of the resources and the truth of the representation, they will proceed to frame scheme. But the clause, as it stands, is sufficient to meet his purpose, for th Board cannot proceed to frame an improvement scheme before it is satisfie that it is necessary, and that it has got sufficient funds to carry it out. Th Corporation representation would be accepted if the Trust has got no reasons t adduce to the contrary. Obviously, good reasons would be that it has not go sufficient funds or that it has got other more important work to do. If th Hon'ble Member's amendment is accepted, the whole clause would have t be recast. I think that the clause as it stands now is more satisfactory to th Corporation than the original one."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I cannot follow my Hon'ble friend opposite in the strong and impres ive language that he uses with regard to this amendment. But if he is satisfied as to the substantial merit of the amendment, then I do not see why the proper wording should not be given to it in order to fit it in with the rest of the clause. When we were moving similar amendments with regard to clause 35 (*now 36*), my Hon'ble friend said, and said with some degree of force, hat they were not only considering official representations, but were also considering schemes of their own motion, and he said that the Board would not consider them if they had not sufficient resources to go on with them. He was urther pleased to intimate that clause 37 (*now 38*) would be the proper place where these amendments might very well be made.

"Clause 37 (*now 38*) and the English Acts, which make it incumbent upon local bodies to move upon official representations and also the Bombay Act have got that language—"if satisfied," etc. The words are identical both in the English Acts and in the Bombay Act, and in our original draft of the Bill [clause 37 (*now 38*)] we had something like this but in a different sense—'if the Board are satisfied as to the truth of any such representation and as to the sufficiency of their resources for carrying it into effect, but decide that, by reason of the number of schemes awaiting execution or for any other reason, it is inexpedient to proceed forthwith to frame a scheme to carry such representation into effect, they shall forthwith send intimation etc., etc." The present amendment seeks to attain this, and if the Board are satisfied, and if the resources at their disposal are sufficient, they shall go on with the scheme. If my Hon'ble friend, the Mover of the amendment, is not technically in order, and if the Hon'ble Member in charge of the Bill thinks that there would be no harm in introducing this clause, I would appeal to him to so draft the clause as to bring it into conformity with the English Act and the Bombay Act."

The Hon'ble MR. BOMPAS said:—

"What I wish to say is that if no Member of the Council objects, and if you approve, Sir, then I see no objection to postponing the consideration of this clause. In the Select Committee we turned the clause upside down, and I see no particular reason to alter it again. But if any Member has any strong feeling on the subject, I am open to conviction."

The PRESIDENT said:—

"We will postpone the consideration of this clause (37) (*now 38*) till after lunch, and see if we can come to an agreement about it."

The motion was then postponed.

The following motion was also postponed:—

218. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "if satisfied as to the truth thereof and as to the sufficiency of their resources" be inserted after the word "and," in line 2 of clause 37 (*now 38*) (*I*.

[*Mr. Apcar; Mr. Bompas.*]

The following motion was, by leave of the President, withdrawn:—

219. If Motion No. 210 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or the signatories referred to in sub-clause (*ii*) of section 36" (*now 37*) be inserted after the word "Corporation," in the penultimate line of clause 37 (*now 38*) (*3*).

New clause 37A.

220. The Hon'ble Mr. Apcar moved that after clause 37 (*now 38*) the following be inserted, namely:—

Inquiry on refusal of Corporation to make an official representation.

37A. (*1*) When a copy of a complaint in respect of any area is sent to the Board under section 36 (*now 37*), sub-section (*2*), they may appoint a qualified medical man to inspect such area and to make a report to the Board, stating the facts of the case and whether in his opinion the area or any part thereof is or is not an unhealthy area.

(*2*) If such report states that the area or any part thereof is an unhealthy area, the Board shall proceed in the manner prescribed by section 37 (*now 38*), as if such report were an official representation made to the Board under section 36 (*now 37*).

He said:—

"Your Honour, I do not understand why a medical inspection is unnecessary with reference to the Board of Trustees in Calcutta when it is found necessary for the Local Government Board at Whitehall, a department of Parliament represented by a Cabinet Minister in the House of Commons. When a local authority refuses an official representation, that is to say a representation which has been made by its own medical officer of health or on the representation or complaint of the rate-payers, and an appeal is preferred to the Local Government Board, it is provided that the Local Government Board shall send down a medical practitioner to make inquiry. But here the Board of Trustees is to be regarded as altogether a very much superior authority than the Local Government Board at Whitehall, and I do not think, Sir, that it is very convincing. In England it is necessary that there should be this provision, in order to ensure that there shall be a proper inquiry made: here the Board is to have absolute discretion to take notice of a complaint or not. I submit that when there has been a complaint made, it ought to be treated seriously and there ought to be a proper inquiry made by a medical officer of health and that the report of the medical officer should be regarded as an official representation when the medical officer reports that the complaint has been made on sound reasons. The distinction that is drawn in the case of the Board of Trustees is very startling, and the clause is not consistent with English precedent."

The Hon'ble MR. BOMPAS said:—

"This amendment does not seem to be necessary. It deals with the case where the Health Officer of the Corporation applies to the Corporation for a certain area to be declared unhealthy. If the Corporation do not agree with his views they will send his report to the Trust, with their comments, and the Trust will have to consider it as they would consider any representation from any other source, and accept it or otherwise. It is obviously impossible to make it compulsory for the Board to engage a medical officer, as I said before, whenever anybody makes a complaint about a certain area. So I submit it is not right to make it compulsory upon the Board to depute a medical officer to inquire into a complaint from twenty-five ratepayers, which they have presented to the Corporation and which the Corporation with its staff of sanitary officers decide to be entirely unnecessary and not worth consideration. When it is sent to the Trust, the Trust may be satisfied with the opinion of the Corporation and decide that no further action is necessary. I think it must be left to the Trust whether an inquiry should be made with regard to any particular complaint and what form that inquiry should take. If the complaint

has passed through the Health Officer's hands I do not think we will gain much by sending another medical officer of ordinary experience to check and report on the findings of an officer who has had peculiar experience of that sort of work. I think it must be left to the Trust to decide whether an inquiry should be made on any complaint or not."

The Hon'ble MR. APCAR said:—

"Your Honour, this follows upon the complaint of rate payers, or of the Health Officer, reaching the Board. If the complaint is rejected it must be reported to the Board. Clause 37 (*now 38*) (*2*) was introduced in Select Committee on the model of section 10 of the Housing Act of 1890, and there it is provided that if the complaint is rejected there is an appeal to the Local Government Board. In place of the Local Government Board the Trust Board will receive these complaints. There seems to be a gap under the Bill, after an appeal is made to the Board. In England there is action taken to see whether or not this complaint is to be accepted. In the first instance it is fortified by a local inspection by a medical practitioner appointed by the Local Government Board. I want the same procedure to be followed in Calcutta namely, that there should be a qualified person appointed to inspect the locality complained of."

A division was then taken, with the following result:—

Ayes 14.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr Dip Narayan Singh.

Noes 30.

The Hon'ble Mr. F. A Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Kisori Lal Goswami Bahadur
The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr C. J. Stevenson-Moore.
The Hon'ble Mr. J. H. E Garrett.
The Hon'ble Mr. T. Butler
The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr H. Wheeler, C.I.E.
The Hon'ble Mr. B. K Finnimore.
The Hon'ble Mr. S. L. Maddox.
The Hon'ble Mr. B C. Mitra
The Hon'ble Mr. G. W Küchler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C H. Bompas.
The Hon'ble Mr. F. L Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr H. J. Hilary.
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Lieutenant-Colonel Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. F. H. Stewart.
The Hon'ble Mr. W. J. Bradshaw.
The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Mr. T. R. Filgate.
The Hon'ble Babu Bal Krishna Sahay.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtananda Sinha.

[*Rai Sita Nath Ray Bahadur.*]

The Hon'ble Râja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan, abstained from voting.

The result of the division was Ayes 14, Noes 30, and the motion was therefore lost.

Clause 38 (now 39).

221. The Hon'ble Rai Sita Nath Ray Bahadur moved that after the words "building-sites," in clause 38 *(now 39)* (*a*), the following be inserted, namely:—

for the working and poorer classes who may be dislodged by the operations of the Board.

He said:—

"Clause 38 (*now 39*) provides that the Board shall be entitled to lay out new streets for the purpose of providing building-sites and for certain other purposes; now the first question, one is tempted to ask, is 'building-sites for whom'? It must not be building sites for Maharajas and Rajas or for Hon'ble Members of this Council. Building-sites must not be provided-for people who are very well off, for the wealthier classes, or for the highly placed, who are very well able to take care of themselves. If such building-sites or buildings are to be provided, they must be provided for the poorer and working classes who might be dislodged by the operations of the Trust—for people who cannot take care of themselves. Such is also the opinion of the Calcutta Corporation and the Bengal Chamber of Commerce. It was only the other day that the Hon'ble Mr. Bompas posed himself as the champion of the tenants and vehemently advocated their cause because they were poor, and because they much out-numbered the higher and middle classes. Such being the view of the Hon'ble Mr. Bompas, let him confine his attention to the poorer and working classes, but, pray, let him not, in the name of sanitation, and at the expense of the public, at the expense of Trust money, provide building-sites or buildings for the wealthier classes and the highly placed. In the course of the debate, the Hon'ble Mr. Bompas was good enough to observe, on Wednesday last, that Calcutta was suffering from two maladies. It was cramped, it could not grow; there was no means of access to the suburbs, no main arteries for the outlet of the population; the purpose of the Trust was to remedy those; it was to provide main thoroughfares and to enable the population to spread over a greater area than it occupied now. I quite agree with him in his remarks, but which portions of Calcutta are more cramped, more congested, more unhealthy, more insanitary and more filthy than the northern quarters of the city and the northern suburbs? It was the filthy and congested condition of the northern quarters of the city which provoked Dr. Simpson, a late Health Officer of the Corporation of Calcutta, to observe that portions of Calcutta were more filthy than an African village. It was to the apprehension of the dreaded plague finding a safe lodgment in the filthy and congested quarters of the northern division that the conception of the Improvement Trust was due. We therefore fervently hope and earnestly pray that the Hon'ble Mr. Bompas will confine his attention to the northern quarters of the town. We wish that he should confine his attention to the removal of congestion in the northern quarters of the town by providing outlets for the dislodged population in the northern suburbs, such as Maniktala, Dum Dum and Cossipore. It would be an abuse of power, if in the name of sanitation, in the name of removing congestion, Trust money were applied to lay out broad thoroughfares in the southern suburbs in the direction of

[*Rai Baikuntha Nath Sen Bahadur ; Mr. Wheeler.*]

Tollygunge or Diamond Harbour Road, places which are already open and well ventilated. It would be an abuse of Trust money if broad roads and streets were made in the southern direction solely for the purpose of providing building-sites, not for the working and poorer classes, but for the highly placed.

"The Bill in its present form seems to have invested the Board with wide powers, to make sweeping changes and in the name of improvements and of sanitation to frame large schemes for laying out new streets through any part of Calcutta and for opening up congested areas, and thereby demolishing any number of buildings in any quarter both in Calcutta and outside it. But the main objects and reasons, which originally led the Government to frame this Bill, were that portions of Calcutta, especially the northern quarters, being too much congested and most of the streets being too narrow and circuitous and thereby hamper traffic, it was deemed desirable for removing these and other defects; that open spaces should be provided for ventilation and recreation and that new streets should be laid out for providing direct and swift communication and for affording facilities to traffic, and that sites should be provided outside the limits of the Calcutta Municipality for the population, especially for the working and poorer classes who might be dislodged by the carrying out of the above schemes; but it has never been suggested in any quarter that laying out of new streets was wanted for providing more building sites in the Calcutta Municipality or such sites were wanted for the wealthier classes; rather the popular impression is that too many buildings have already been provided both in the European and commercial quarters of the town, both for residential, commercial and business purposes, and that the time was not far distant when many buildings would go abegging.

"It was only the other day a well informed and prominent resident of Ballygunge told me that houses were springing up like mushrooms in Ballygunge, with the result that about 37 houses in Ballygunge and its neighbourhood were lying vacant with the sign-boards attached to them 'To Let.'"

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said :—

"Sir, I beg to move that the words 'for the accommodation of the displaced poorer and working classes' be added after the words 'building sites' in clause 38 (*now 39, (a)*). The language in the clause, namely, 'providing building sites' is of a vague nature. What sort of buildings are intended is not very clear. It may include residential buildings for re-housing the dislodged people. There is a provision in clause 46 (*now 47 (f)*) of the Bill for the re-housing of persons who are likely to be displaced by the execution of a scheme, particularly of persons of the poorer classes. I have been told by the Hon'ble Mr. Wheeler that the building-sites mentioned in clause 38 (*now 39*) are not intended for buildings for re-housing purposes. Clause 38 (*now 39*) is meant for building-sites, which are necessary for laying out new streets, and such building-sites would include only small buildings such as urinals, etc. I beg to submit before this Council that the wording of the different clauses should be such that the intention of the Legislature may be clearly and easily gathered and properly construed by the judiciary. According to well-known maxims of construction of legal phraseology, the words actually used must show the intention of the Legislature. The intention ought to be patent on the face of the word, and latent meaning should not be left for the judiciary to infer. However, as the Hon'ble Mr. Wheeler tells me that the building-sites mentioned in clause 38 (*now 39*) are not intended for residential buildings, I do not press it."

The Hon'ble MR. WHEELER said :—

"I think, Sir, that this amendment and the two which succeed it are based, possibly, upon some misapprehension of the meaning of the clause. The provision of building-sites in accordance with clause 38 (*now 39, (a)*) is not for

[*Babu Bhupendra Nath Basu.*]

the purpose of the re-housing schemes dealt with in clause 50A (*now 52*). With reference to that clause, there are various amendments desiring to restrict its application to persons of the poorer and working classes only, and these we shall discuss hereafter. But clause 38 (*now 39*) (*a*) merely refers to the disposal of lands on either side of a newly constructed street scheme. The clause is modelled on section 30 of the City of Bombay Improvement Act, where the Trust has a similar power to provide building-sites for the expansion of the city. This is an essential feature of the Bill. It is one of the purposes of the Bill not only to attempt to rectify sanitary defects within the town, but to control the expansion of the town and provide areas for building along the new streets to be laid out, which will favour the migration of the population to less congested centres and will prevent there the recurrence of the same state of affairs which has disfigured the heart of the town. The process is analogous to the disposal of surplus lands by the Corporation along any line of road which may be opened up. They thereby provide building-sites and this is all that this clause of the Bill contemplates. If this is so, there is no reason for stating that the sites should be either for the working and poorer classes, or for the persons displaced by the operations of the Board. These classes will doubtless share in the advantages of the Board's action, but there can be no reason for saying that no one else shall. The action of the Board under this clause is of a twofold nature: it is partly the disposal of surplus lands by way of recoupment, and it is partly of the description of town-planning. The principle of recoupment is not new; it rests on principles quite other than the accommodation of the poorer classes or of persons displaced, and there can be no justification for restricting its application. Moreover, how this could be done in practice is not in any way clear. How is the Board to proceed? Are they only to sell to the poorer classes, who *ex hypothesi* will be unable to buy? If the poorer and working classes only are to be considered, the restriction would absolutely frustrate any attempt to safeguard the interests of the previous owners of the land, for which there are various provisions in the Bill, to which importance is attached, and what is to be done supposing the persons displaced do not want the land, or there are no residents displaced, as might be the case if the Board was operating in areas outside the town with a view to future expansion? Is the land in this case to be settled as a building-site only with the one cultivator who happened to be occupying it? This is obviously impossible. The amendments appear to be confusing two different things. Whatever the merits may be of the proposal to restrict re-housing schemes to persons of the poorer and working classes displaced by the operations of the Board, they do not apply to this clause, which deals with another matter."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, would my friend accept the wording of the Bombay Act which says: 'providing building-sites, etc'? There is a misapprehension on our side and we do not understand what it means. It means perhaps that you may take up lands and open out roads and provide building-sites. The question is, building-sites for whom? Unless you introduce some sort of limitation or definition the result will inevitably be that you will bring in a large number of land jobbers and gamblers. You open up building-sites and somebody goes and buys them up and tries to resell them at an advantage. My friend, the Hon'ble Mr Bompas, says 'we will keep our procedings secret'. I may say that it will not be possible to keep your proceedings secret, and it will not be possible to prevent what had happened in regard to gigantic schemes of the Second Empire in France, but whatever that may be, we do not desire that our poor population should be bought out on the condition which this Act lays down for the benefit of land-jobbers and landholders. If building-sites are provided for people actually displaced or for the expansion of the city we would have no objection; but it is possible, I do not say that it will happen, that somebody may move the Board for a particular site; and it is possible, as in other Boards has happened, that the Board may have to acquire that site for a

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Mr. Bompas.*]

particular individual or body. That is a contingency which we want to avoid. We do not for a moment say that building-sites should not be provided, but are you going to open out streets to provide building-sites for people who will dabble in land-jobbing and procure these sites at the expense of the resident population of the city? Is there any safeguard in your law against such a contingency as that? There being no safeguards, we find that it is necessary that some safeguard should be introduced. It may be that my friend has gone beyond the mark. I appeal to my friends to bear in mind what I have been trying to place before them and to introduce some provision which will prevent the contiugency like the one to which I have been alluding."

The Hon'ble Mr. Wheeler said:—

"That is entirely a different amendment."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"I wish to speak and shall speak against the amendment. The surprise makes my hon'ble friend start up in an expectantly listening attitude. Sir, we have brought in our amendments as I had occasion to say before, in the best of light and that light sometimes differs. Here is an amendment with regard to which I am unable to agree, although other amendments on the same line but of a somewhat different character will commend themselves to us later on. I am unable to follow the Hon'ble Mr. Bompas when he, following the Hon'ble Babu Bhupendra Nath Basu, desires to stand in the way of the land-jobber; that is a thing which no legislator, nor any executive for the matter of that, has ever been able to do. You cannot earmark the building-sites and say none but persons of a certain character shall come in there. Of course by your rules and standing orders which I suppose will be provided, it will be possible to discriminate amongst those who are aspirants for these sites, but as I read this clause it is merely a preamble. It is for the purpose of providing sites that the Trust is going to take power. How these sites will be disposed of will be determined later on. Among many things mentioned in this clause 38 (*now 39*) providing of building-sites is one. What purpose those sites are to be put to is a matter that is not dealt with in this clause and I am afraid the amendment of the Hon'ble Rai Sita Nath Ray Bahadur comes in a somewhat weak form, if he insists on its coming in here. If, however, he would take his stand on an amendment like 222, larger points of agreement would present themselves and for aught we know the Government may be able to see their way to adopting some limitation to be placed with regard to those for whose benefit sites likes these are to be provided; but so far as the acquisition powers go which are of a more general purpose, they are provided in clause 38 (*now 39*) and therefore this amendment does not come in with the force which it may have elsewhere."

The Hon'ble Mr. Bompas said:—

"I think the Hon'ble Mr. Wheeler has certainly dealt with the amendment as put forward by the Hon'ble Rai Sita Nath Ray Bahadur but the Hon'ble Babu Bhupendra Nath Basu has asked us whether we would accept the wording of the Bombay Act which provides building-sites for the expansion of the city, and hoped that in some mysterious method the insertion of these words would restrain land-jobbing. I do not accept the proposal for the reason that the wording of the Bombay Act has been found inconvenient and in their Bill to amend that Act they have proposed the omission of these words. The Bombay people found it inconvenient, and I see no reason why we should adopt it here. As the Hon'ble Mr. Wheeler has pointed out it is no good to attempt to improve congested parts of Calcutta unless you take steps to deal with the fatal growth of the population. Within the last decade the population of Calcutta has added another lakh to its number. All remedies are useless unless you are prepared to meet the congestion of Calcutta and the growth of population by laying out suburbs."

[Rai Sita Nath Ray Bahadur ; Rai Baikuntha Nath Sen Bahadur ; Babu Bhupendra Nath Basu.]

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I beg to point out to the Council that there is no provision in the Municipal Act for the laying out of new streets simply for the purpose of providing building-sites alone and nothing more.

"Of course you may open out a new street to relieve congestion, to facilitate traffic and to provide swift means of communication, but what I object to is the provision made here for the laying out of new streets simply for providing building sites not for the working and poorer classes or for the dislodged population, but for the wealthier classes and the high placed."

The motion was then put and lost.

The following motions were by leave of the President withdrawn:—

221A. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that after the words "building sites", in clause 38 (*now 39*) (*a*), the following be inserted, namely:—

for the accommodation of the displaced poorer and working classes.

222. If Motion No. 221 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that after the words "building-sites", in clause 38 (*now 39*) (*a*), the following be inserted, namely:—

for persons who may be displaced by the operations of the Board.

Clause 39 (now 40).

224. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 39 (*now 40*) be omitted.

224A. If Motion No. 224 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that after the words "as a whole," at the end of clause 39 (*now 40*) (*a*), the following be inserted, namely:—

and of the congested quarters of Calcutta in particular.

225. If Motion No. 224 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that clause 39 (*now 40*) (*b*) be omitted.

225A. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "the several directions" be substituted for the words "the direction", in line 1 of clause 39 (*now 40*) (*b*).

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

226. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "neighbouring and" be inserted after the word "for", in clause 39 (*now 40*) (*c*).

226A. If Motion No. 224 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "the northern and other congested quarters of Calcutta and their neighbouring areas" be substituted for the words "other parts of Calcutta", in line 2 of clause 39 (*now 40*) (*c*).

Clause 40.

227. The Hon'ble Babu Bhupendra Nath Basu moved that the words "and the construction of such buildings", in clause 40 (*now 41*) (*c*), be omitted.

He said :—

"Sir,—clause 40 (*now 41*) provides for matters which must be provided for nprovement schemes. These matters being amongst others the construction nch buildings as the Board may think necessary. I do not understand t that is intended to cover. I think every one will agree with me that it ld be dangerous to allow the Board power to go on erecting buildings for poses which may not legitimately fall within the scope of a public body. his connection, I shall quote from the letter which the Government of a addressed to the Secretary of State for India on the 26th September, 1907 :

'We do not desire that the Trust should undertake the acquisition of building land or onstruction of houses, beyond the extent actually necessary to ensure that migration opulation to the suburbs which we have endeavoured to show is essential to the success ie scheme. We hope that when once the Trust has commenced operations, private rs will be ready to undertake the provision of house accommodation in suburban areas, ve consider that the Trust must be in a position from the first to control and direct the nsion, and that it should be at liberty, when private enterprise is deficient and until it been stimulated, by example, to provide houses for the population actually displaced by perations. The example of Bombay shows how necessary this last proposal is In that no provision was originally made to re-house the population displaced, with the result the people ejected, instead of leaving Bombay and settling in some distant suburbs, ly crowded into the *chawls* which had been left standing. The Bombay Improvement t has since recognized its mistake and has begun to construct model *chawls* for a portion ese people, its intention being not to provide housing for the whole of the population sed, but by constructing sanitary dwellings on a commercial basis to induce private alists to follow its example.'

"So, there both the Government of India and the Secretary of State have nind the purpose to which construction of buildings by the Board of stees, if at all, should be confined, and I think it is unsafe that these poses should not be introduced in this clause, and it should be left as wide t is 'as the construction of such buildings as the Board may think ssary'. The Board, as I have more than once said, consist of a small ber of persons who may be canvassed easily. I do not think that we should e an unfettered discretion to the Board in a matter of such serious import- . It is not done in other countries and it should not be done in ours."

The Hon'ble Mr. Wheeler said :—

"I think, Sir, there is some misunderstanding of the intention of the ie. The arguments and the references which the Hon'ble Babu Bhupendra Basu has quoted have reference to re-housing schemes, which are dealt with lause 50 A (*now 52*). But this clause does not refer to these, nor is it emplated that the Board should undertake extensive rebuilding operations, it may be desirable that, in pursuance of a scheme, the Board should erect small buildings, *e.g.*, a latrine, or a summer-house in a park, and, if so, the me should provide for that. The construction of buildings is similarly ided for in section 25 (*i*) (*b*) of the Bombay Act, and the clause is not open ouse. After all, it only says that the scheme shall provide for these things, object being that the Local Government shall be in possession of complete mation of all the expenditure involved. It is also desirable that the c should be aware of the full details of the proposal. The Local Govern- , under clause 47 (*now 48*), may sanction the scheme either with or without fication, and, if buildings are improperly proposed, they can order their sion. Unless it is sought to say that under no inconceivable circumstances nnection with an improvement scheme shall the Board construct a build- the intention of the amendment is not clear."

The Hon'ble Rai Sita Nath Ray Bahadur said :—

"Provisions for the construction of buildings have already been made by e 50 A (*now 52*), so these words are quite superfluous here and I do not for whom and for what classes such buildings are wanted."

[*Babu Bhupendra Nath Basu; Mr. Wheeler; Mr. Bompas; the President.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"With reference to what has fallen from the Hon'ble Mr. Wheeler, I am afraid his memory is not quite accurate. If we look to clause 40 of the original Bill, we find that clause (*f*) runs 'the construction of dwellings for persons displaced by the execution of the scheme and of shops for the use of such persons.' That was originally the intention of the Bill. That has been whittled down to this, 'the construction of such buildings as the Board may consider necessary."

The Hon'ble MR. WHEELER said:—

"It might facilitate matters if I offer one word of explanation: clause 40 (*f*) of the original Bill corresponds to clause 50 A (*now 52*) of the present Bill."

The Hon'ble MR. BOMPAS said:—

"Construction of buildings was originally in clause 40 (*c*), as the Hon'ble Member will see."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, then the question which arises is this: if the buildings are intended to be of the nature that my friend the Hon'ble Mr. Wheeler suggests, I, for one, have no objection to it. But if they are to be of a different nature, certainly I would object to it. The words as they are 'construction of such buildings as the Board may think necessary' are very wide. They are much wider than any power that was intended to be conferred on the Board either by the Secretary of State or the Government of India, and therefore it would be some use in limiting that sentence 'construction of such buildings' expressly to such schemes. I think that it would be some limitation of the Board's powers, otherwise we feel that we may be let in for things which were intended to be covered by the original clause (*f*) 'building of shops, etc.,' and we do not wish that the Board should be converting itself into a trading body or trading society, and that is what we object to in these provisions."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

228. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and the construction of such buildings", in clause 40 (*now 41*) (*c*), be omitted.

229. The Hon'ble Babu Bhupendra Nath Basu moved that the words "for persons of the poorer and working classes" be inserted after the word "buildings", in line 4 of clause 40 (*now 41*) (*c*).

He said:—

"I am now speaking on clause 40 (*now 41*) (*c*)—'and the construction of such buildings as the Board may think necessary.' I want to add 'for persons of the poorer and working classes.' The English Acts do not provide for anything else, and I do not see why we should be more generous than the English Acts have been."

The Hon'ble MR. WHEELER said:—

"As I have explained, this clause does not refer to re-housing schemes, and I think the question of housing the poorer and working classes only can more conveniently be discussed in connection with clause 50A (*now 52*)."

Babu Bhupendra Nath Basu ; Mr. Apcar ; the President ; Rai Sita Nath Ray Bahadur.]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I accept my hon'ble friend's explanation, but I may remind him that he ay not be on the Board for a long time."

The Hon'ble MR. APCAR said:—

"May I intervene The reason why I have moved my amendment with ference to clause 40 (*now 41*) (*c*) is this. I think the Hon'ble Member will member that in the first instance it was inserted in the Select Committee to ait construction to the poorer classes and it was eliminated afterwards. herefore, I was led to believe it was necessary to move this amendment at this age."

The PRESIDENT said:—

"The Hon'ble Mr. Apcar desired, I think, to speak on Motion No. 230, less he prefers to do so on No. 229."

The Hon'ble MR. APCAR said:—

"I thought that this clause would govern the Act. However, if that ques- n is left open, I have no objection to have the discussion in the place where e Hon'ble Member suggests."

The PRESIDENT said:—

"These questions may stand over."

The motion was then postponed.

The following motions were also postponed:—

229A. If Motion No. 228 be not carried, the Hon'ble Rai Sita Nath ay Bahadur to move that the words "for persons of the poorer and working asses" be inserted after the word "buildings", in line 4 of clause 40 (*now*) (*c*).

230. The Hon'ble Mr. Apcar to move that the words "for persons of e poorer classes" be inserted after the word "buildings" in line 4 of use 40 (*now 41*) (*c*).

230A. If motion No. 230 be not carried, the Hon'ble Mr. Apcar to move at the words "for persons actually displaced by any improvement scheme" inserted after the word "buildings" in line 4 of clause 40 (*now 41*) (*c*).

231. The Hon'ble Babu Deba Prasad Sarbadhikari to move that after use 40 (*now 41*) (*c*), the following be inserted, namely:—

(*c1*) the re-housing of persons whose property has been or may be acquired and who require re-housing accommodation and whose yearly income does not exceed one thousand five hundred rupees.

Clause 41 (now 42).

232. The Hon'ble Rai Sita Nath Ray Bahadur moved that at the end clause 41 (*now 42*) the following be inserted, namely:—

"Provided that, in acquiring land for a proposed improvement scheme or for the laying out of a street, no land exceeding fifty feet in depth beyond the area comprised in the proposed scheme, or, in the case of a proposed street, exceeding fifty feet in depth on either side of the street alignment, shall be acquired.

He said:—"I admit that the amendment I have proposed is somewhat too row and rigid and will go to hamper the Trust in the acquisition of land; though my amendment may not, in its present form, find favour with the

majority of the Council, what I beg to urge is that there should be a limit to land acquisition. The law should definitely prescribe 'Thus far you should go and no further.' A *carte blanche* must not be given to the Trust to acquire an unlimited and undesirable quantity of land irrespective of its requirements.

"With reference to clause 41 (*now 42*), I need hardly refer to the objection that I urged in my Minute of Dissent against the provisions of the above clauses. The clause in question is no doubt a reproduction of the provisions of section 357, sub-section 2, of the Calcutta Municipal Act. It is, no doubt, in the interests of the public desirable that the Board should be empowered to acquire extra land beyond the one of the Improvement Scheme, so that that they might be in a position to recoup to some extent the costs of any scheme, but that would not certainly justify the Board to indulge in land speculation or, what is worse, in land-grabbing. It would be mischievous, and I say it would be most detrimental to private interests, if the Board, in the name of the betterment principle, were authorized to acquire any quantity of land irrespective of their necessary requirements. The evils of acquiring an unlimited quantity of land beyond the necessary requirement of the case have been very well illustrated in the few instances which have been cited by my friend Maharaj Kumar Hrishikesh Laha in his Note of Dissent. It is a common occurrence in the Calcutta Municipality that in laying out new streets or in executing any other improvement scheme, proposals are oftentimes submitted, and as often greedily accepted, that much larger quantities of excess lands beyond the necessary requirements of the case should be acquired (irrespective of consequences to owners of such lands), so that the Corporation might be in a position, not only to recoup the costs of the schemes, but also to make large additional profit by subsequently disposing of the excess lands at fancy prices.

"To what perverse length the pernicious principle of recoupment may be carried will be well illustrated from the two recent cases of the proposed acquisition of land which I beg to quote from the proceedings of the Calcutta Corporation. From these proceedings it would be seen that the demoralising influence of speculation, that is, of making money to the serious loss of innocent third parties, has even hypnotised such a corporate body as the Calcutta Municipality. Give the power, the authority to make money at the expense of others, it is sure to be abused, even in the hands of a corporate body.

Here are the two late illustrations which I beg leave to quote :—

'*1. Plan and estimate for construction of a road in continuation of Lansdowne Road.*

'The Committee were asked to consider the plan and estimate for the construction of a road in continuation of Lansdowne Road southwards between Hazra Road and Monoharpukur Road and the Surveyor's note thereon.

'The Surveyor's note was as follows :—

'A projected public street, 60 feet wide, has been aligned in continuation of Lansdowne Road southward from Hazra Road to Mudially Road and thence to Russa Road near the Railway bridge.

'An offer made to make over the land required for this road between Hazra Road and Monoharpukur Road was refused, and it was decided that surplus land should be acquired when it is decided to make the road. The Estates and General Purposes Special Committee, at their meeting held on the 9th January 1911, asked for an estimate of the cost of acquisition and construction.

'I beg to submit a plan and estimate for the acquisition of land and cost of construction.

'The road will be 1,200 feet in length. The area of land proposed to be acquired is approximately 24 bighas, of which 18½ bighas will be surplus land.

[*Rai Sita Nath Ray Bahadur.*]

'I estimate the cost of aquisition at Rs. 1,43,320 and the District Engineer's timate for tank-filling and construction, metalling, sewering, lighting and ater-supply is Rs. 59,565, the total cost being Rs. 2,02,885.

'I estimate the probable reimbursement by sale of surplus land at not ss than Rs. 2,25,448.

'The details are—

	Rs.
Acquisition of land	1,43,320
Tank-filling and construction	59,565
Interest at 5 per cent. for two years on cost of surplus land ...	10,534
Total cost ...	2,13,419
Probable reimbursement by sale of surplus land	2,25,448
Net estimated profit ...	12,029

'This matter was placed before the Estates and General Purposes Special ommittee on the 7th March 1911, when Rai Radha Charn Pal Bahadur jected to the disproportionate amount of surplus land which it was proposed acquire. He considered that to make the profit proposed was wrong in inciple. The Committee resolved:—"That the plan and estimate amounting Rs. 2,02,885 for the acquisition of land and construction of a road in ntinuation of Lansdowne Road southward between Hazra Road and onoharpukur Road be administratively sanctioned, and that the objection of i Radha Charn Pal Bahadur be recorded."

'When the recommendation of the Special Committee came up before the rporation at their meeting held on the 12th April 1910, it was resolved that e matter be referred back to this Committee for reconsideration and report.

'The plan and estimate were considered.

'Babu Bipin Chandra Mullick said he advocated taking the whole of land.

'The Chairman said he thought the feeling of the Committee, after examing the boundaries of the plots, was that it would not be possible to take a aller quantity of surplus land. Rai Radha Charn Pal Bahadur said they ght take the land offered free of cost, and ask the parties if they were willing also contribute to the cost of the construction of the road.

'Dr. Dutt said the Committee had already decided against that.

'Rai Radha Charn Pal Bahadur said the cost of construction was not nsidered by the Committee.

'After further discussion it was resolved—

(*a*) That the plan and estimate amounting to Rs. 2,02,585 for the acquisition of land and construction of a road in continuation of Lansdowne Road southwards between Hazra Road and Monoharpukur Road be administratively sanctioned.'

'2. *Forty-feet road to connect Lansdowne Road with Bakulbagan Road.*

'The Committee were asked to consider the plan and estimate for the nstruction of a 40-feet road to connect Lansdowne Road with Bakulgan Road on the north of the Lansdowne Market.

'The Surveyor's note is as follows:—

'The Corporation at their meeting held on the 9th November 1910, nfirmed the resolutions passed by the Markets Special Committee, at their eting held on the 24th September 1910, recommending for adoption the oposals set out in Mr. J. R. Bertram's report for extending and improving nsdowne Market.

'Mr. Bertram recommended the construction of a 40-feet road through . J. C. Galstaun's land to connect Bakulbagan Road with Lansdowne Road the north of Lansdowne Market, to provide for access to the market from west.

[*Rai Sita Nath Ray Bahadur.*]

'I beg to submit herewith a plan and estimate of the cost of construction of the proposed road.

'It is proposed to acquire an area of 8 bighas, 4 cottahs, 10 chittaks and 16 square feet of land, of which 1 bigha, 6 cottahs, 5 chittaks and 15 square feet will be required for the road, and the balance 6 bighas, 18 cottahs, 5 chittaks and 1 square foot will be surplus land.

'I estimate the cost of acquisition at Rs. 44,600 and the District Engineer estimates the cost of construction of the road with sewer, footpath, water-supply and lighting at Rs. 7,954, a total of Rs. 52,554. The sale of the surplus land should realize Rs. 69,156.

'The following shows the estimated net cost of the project :—

	Rs.
Acquisition of land	44,600
Cost of construction of road	7,954
	52,554
Add interest at 5 per cent. for two years on cost of surplus land	3,733
	56,287
Reimbursement by sale of surplus land	69,156
Net gain ...	12,869

'If Mr. Galstaun makes a free gift of the land required for the roadway, an area of 1 bigha, 1 cottah, 10 chittaks, 30 square feet, the cost to the Corporation will be Rs. 12,854, as follows :—

	Rs.
Land to be acquired in premises No. 128, Bakulbagan Road ...	4,900
Cost of constructing the road with sewer, water-supply, etc., etc.	7,954
	12,854

'If surplus land is acquired, the net result will be a gain of Rs. 12,869. If Mr. Galstaun's offer is accepted, the cost to the Corporation will be Rs. 12,854.

'The Chairman is of opinion that we should acquire the land and reimburse ourselves by selling the surplus land.

'The Chairman said he inspected the locality with Babu Ramtaran Banerjee the other day. In reply to Rai Radha Charn Pal Bahadur he said the road was necessary, and it would open out the Lansdowne Market. The quarter was one which was certain to grow in importance.

'The plan having been examined and explained by the Surveyor, it was resolved—

'That the plan and estimate for the acquisition of land and construction of a 40-feet road on the north of Lansdowne Market to connect Lansdowne Road with Bakulbagan Road, at an estimated cost of Rs. 52,554, including surplus land, be recommended to the Corporation for administrative approval.'

"From the first illustration it would be seen that the sole motive which swayed the Corporation, or rather the Special Committee, in acquiring 24 bighas of land, of which only 5½ bighas was legitimately required for the proposed road, was not only to recoup the costs of the whole scheme, that is, of making a road twelve hundred feet long free of cost, but at the same time to make a net profit of twelve thousand rupees. The idea of making a profit was characterized by Rai Radha Charn Pal Bahadur as wrong in principle. The cruel wrong involved in the principle could not be better illustrated than by the offer made by Rai Radha Charn Pal Bahadur, who offered, on behalf of the proprietors concerned and aggrieved, to make over the land required for construction of the proposed road free of cost and even went so

as to offer to contribute to the costs of the construction of the road, bu it was not accepted.

"The central idea of the recoupment policy is to acquire surplus land for uping the costs of the scheme; but here, though the parties concerned red to make a free gift of the land required and even offered to contribute to costs of the construction of the proposed road, the Corporation was orable, for it would not forego the temptation of making an additional it of twelve thousand rupees.

"I ask the Council what can be more demoralising than this? In a private y we call it greed and land-grabbing, but in a corporate body we pass it , for it is for the good of the public.

"As I was sure that my motion No. 232 would not, in the present t of the Council, be accepted, I proposed an alternative amendment, that ie insertion of the words—'directly and materially' before the word cted' in line 3 of clause 41 (*a1*) [*now 42 (a)*].

"The word 'affected' as put here is altogether vague; it will go to ower the Improvement Trust to acquire any quantity of land anywhere. ose the Improvement Trust were to open out a new road and extend it Dalhousie Square northwards through the heart of Barabazar, would it oper to acquire all lands on either side of the proposed road extending on rest to Strand Road and on the east to Chitpur Road, and thereby dislocate, ganise and worse than confound the whole trade of Barabazar? What I o propose is that there should be a limit to land acquisition and not to give *te blanche* to the Improvement Trust."

The Hon'ble MR. BOMPAS said:—

"The Hon'ble Member says that he admits that this amendment cannot arried as it stands. I need not trouble the Council with a disquisition on rinciple of recoupment. He accepts the principle that you may acquire s land along the line of roads that are opened out. He says that you may re a strip of land which he admits would be inadequate for practical ses. I think this Council will see the extreme inconvenience that would , supposing we lay out an 80-feet road in a business part of the town provide only sites 50 feet deep on each side of the road. It would possible to erect buildings suitable to accommodate the businesses which naturally be carried on in such a thoroughfare. When the Select ittee was sitting, I endeavoured to find some formula that would limit erations of the Trust in acquiring surplus lands, but I could find none would meet all cases. I think we ought to leave it as it has been left in mbay Act."

The Hon'ble MR. APCAR said:—

"Your Honour, I think that the proposal is not one that we could ly accept. I quite agree with the Hon'ble Member in charge that 50 too narrow a limit, but I only intervene to enter my protest against this ite power that has been entrusted to the Board. There have been ts made to define exactly a general law providing that limits should be e, but nevertheless it must not be supposed that all the members of the l are in agreement in leaving this power absolutely in the hands of ble persons. In England these improvements are ordinarily taken as acts, and then the matter comes up after having been thoroughly gated, and there were definite limits with regard to which there is an ement area beyond which the acquisition cannot proceed. There every- ows that after consideration of proper material, exactly what is to be nd there is legislation based on that. Here Your Honour will see that no kind of restraint whatever. There the danger lies. I merely o say that the principle that is here incorporated is one that meets with al acceptance."

[*Mr. Maddox ; Rai Sita Nath Ray Bahadur ; Mr. Bompas ; Babu Bhupendra Nath Basu ; Mr. Apcar.*]

The Hon'ble MR. MADDOX said :—

"If I had known, Sir, that the Hon'ble Rai Sita Nath Ray Bahadur had intended to bring up these cases, I should have looked up particulars beforehand. In the first case, however, it was impossible to take up a smaller quantity of land without breaking into portions of holdings, and in the second case the Corporation decided that it was not desirable to saddle the rate-payers with the cost of an improvement when it could be carried out without any expense."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"What I beg to say is this : suppose a road were extended from Coomertooly to Bagbazar, would the Trust be justified in acquiring land on either side of the proposed road up to Strand Road on one side, and on the other up to Chitpore Road? My proposal is this, that the Board should not have power to acquire land as it thinks fit, but that there must be some limit to its power of acquiring lands."

The motion was then put and lost.

233. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "directly and materially" be inserted before the word "affected" in line 3 of clause 41 (*a1*) [now 42 (*a*)].

He said :—

"I would suggest that the Board should acquire as much land as would be materially or directly affected by the improvement scheme, and nothing else."

The Hon'ble MR. BOMPAS said :—

"There are two other similar amendments, Sir. I resist this amendment because it makes no material change in the law and does not rest on precedents. The wording of our clause is taken from the Bombay Act, and I do not think that anything is gained by the amendment. The idea is that the clause gives the Board power to take up land which is improved in value by their operations."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"My amendment is virtually the same as that of the Hon'ble Rai Sita Nath Ray Bahadur, and if my hon'ble friend will look at the original draft which was before the Select Committee he will find that this provision was not there—the acquisition by the Board of any land comprised in a scheme which will, in their opinion, be affected by the execution of any scheme. There is nothing said here as to what is the meaning of the words 'which will be affected'. Do they mean 'injuriously affected?' I do not understand what they really mean. Whenever any area is taken in otherwise than for improvement, I apprehend that every part of that area will be in one sense or other affected, but does this empower the Board to take up the whole of the area if any part of the area is affected for the purpose of improvement? I do not understand what is the object for which this wide power is sought to be retained. These are the considerations which move me in putting before this Council my amendment for the words 'directly affected.' I do not think there can be any objection to accepting this amendment. It will to some extent allay public alarm as to the scope of the operations of the Trust, and I hope it will sufficiently meet the purpose for which this clause has been introduced."

The Hon'ble MR. APCAR said :—

"It will be an advantage if we could learn what is meant by this. What are the circumstances that will justify this acquisition? There is no direct intention whatever, and there the danger lies."

[*Mr. Wheeler; Babu Bhupendra Nath Basu; Mr. Bompas; the President; Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble MR. WHEELER said:—

"It still does not seem desirable to add the word 'directly.' It may open a loophole to misunderstanding, and as the clause stands, it follows the Bombay Act which, as the Hon'ble Mr. Bompas has already said, has worked well for a number of years."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"There is one thing that I may point out to my hon'ble friends opposite that in the Bombay Act we find the words 'the acquisition of any land which will be necessary for the execution of the scheme.' Somehow or other these words have been omitted."

The Hon'ble MR. BOMPAS said:—

"But that is provided for in clause 40 (*now 41*). Under clause 40 (*now 41*), it must be acquired, under clause 41 (*now 42*) it may be acquired."

The Hon'ble MR. WHEELER said:—

"The object of clause 41 (*a1*) [*now 42 (a)*] is to provide for the acquisition of lands for the purpose of their eventual resale in recoupment of the cost of the operations. It will not be to the interest of the Board to acquire any land which they do not think they can re-sell at a profit, and that consideration will restrain them from abusing the section by taking up land in excess. If the sale proceeds are not greater than the original price paid, then, after deducting the incidental expenses of taking up the land, the Board can only re-sell at a loss. If the sale-proceeds appreciably exceed the original price paid, it follows that the land must have been directly affected by the scheme, and the amendment appears to be unnecessary."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I understand it in this sense that it may be necessary for the purpose of recoupment or for the purpose of carrying out the scheme; whereas in our case it may be that you are having in your mind the idea of trading. My hon'ble friend Mr. Wheeler says that this is not the intention."

The PRESIDENT said:—

"I do not think that you are in order in arguing in reply."

The Hon'blo RAI SITA NATH RAY BAHADUR said:—

"I have already said what I intended to say with regard to this motion."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

234. The Hon'ble Babu Bhupendra Nath Basu to move that the word "directly" be inserted before the word "affected", in line 3 of clause 41 (*a1*) [*now 42 (a)*].

235. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "materially benefited" be substituted for the word "affected," in line 3 of clause 41 (*a1*) [*now 42 (a)*].

He said:—

"My amendment practically covers the same ground as previous amendments but I have used another word. The word 'benefited,' which is used, may be taken as more than and less than 'affected.' We have had frequent references to the principle of betterment, but none to the principle of what may be called

worsement. Is it the intention of the legislature that where the improvement is likely to prejudicially affect the neighbourhood, it will be the duty of the authority all the same to acquire land in the same way as it would acquire where there is a chance of some profit? I think that is not exactly the intention of the legislature, and those are not the lines upon which we are proceeding. It is because the principles of betterment and recoupment were adopted to a certain extent in the Act previous to the Municipal Act which now governs us, and are fully accepted in section 357 of the present Municipal Act, that amplification of the principle has become possible. It is no doubt on those grounds, on a more extended scale, that this enactment is proceeding. But experiences to which the Hon'ble Rai Sheo Shankar Sahay Bahadur had referred, make one hesitate to accept that principle to the fullest possible extent If I may remind the Council of what a responsible body like the Building Commission had to say with regard to the matter, our minds would be brought back to what has been considered by a responsible and representative body that very closely examined the question, as having an intimate bearing on the situation. That Commission, Sir, it will be remembered, was presided over by the Hon'ble Mr. Justice Trevelyan and had for one of its members the Hon'ble Mr. Risley. The landlord element was conspicuous by its absence. The late Hon'ble Babu Nalin Behari Sircar and Babu Kally Nath Mitter, neither of whom could aspire to being a landlord, were the non-official representatives. That Commission, in paragraphs 130 and 131 of its report, fully went into the question of betterment and recoupment. I need not read the whole of the long extracts on the question. But what they said was this. It is not desirable in any way to extend section 204, as it then was, of the Municipal Act and they recommended that 'when the Commissioners desired to acquire any additional land under clause (*b*) of the section outside the regular line of a street, the owner shall be at liberty to retain such additional land on paying a 'frontage rate' to be fixed by the Corporation, or the capitalized value of such rate, and that the sanction of the Local Government should be required in every case under clause *b*), and not only, as at present provided in cases where more than 100 feet of land are acquired on either side of the regular line of a street.'

"Then with regard to betterment they said:—'it would be in many cases a great hardship to compel the owner to pay for the building of a street which he neither requires nor desires. The opening out of a new street is often as much a benefit to persons away from, as to those residing in, the immediate neighbourhood of the particular locality; and we are unable to say that there should be any deviation from the present system of not putting any greater burden upon the owners of land in the immediate neighbourhood than upon rate-payers.'

"It would no doubt be said against the argument that I am trying to base upon the recommendation of the Building Commission that that recommendation was not accepted in connection with the Municipal Act, and that what was as a matter of fact condemned is contained in the present section 357 of the Municipal Act; but the acceptance of the principle on a small and modified form by the legislature on a previous occasion, contrary to the pronouncement of the high authority I have referred to, would not justify our doing the same thing over again and on a larger scale and in a more objectionable manner if there is good reason to the contrary, and to my mind abundant good reasons have been shown why such a thing should not be adopted on the extensive scale that this clause proposes to add.

"The Municipal Act was concerned with stray improvements that might come before the Corporation in the regular course of administration and would not very largely or seriously affect the whole town, and therefore possibly there may not have been the same objection to the acceptance of the principle, wholesale adoption of which was condemned by the Building Commission, as there would be to a much larger measure like the one that is now before us. Even as things now stand the prejudicial effect is perceptible, but that larger powers like this to affect the whole of Calcutta and the additional areas that may be amalgamated under the provisions of the Act from time to time, may

rery serious indeed, if some safeguards like those that we seek to introduce not provided. In that view of things, the concession that we ask for is not r large. If you clearly show that a particular frontage or a particular is likely to be distinctly benefited by the scheme you will make them for it. But what you are seeking now to do in the clause under considera- is something quite different—any area that may be affected by the execution the scheme is to be saddled with a heavy burden. I remember, Sir, day ore yesterday, the Hon'ble Mr. Bompas, in resisting the motion of the n'ble Babu Bhupendra Nath Basu, that the Trustee whose house or land ld be affected by a particular scheme should not take part in the proceedings regard to that scheme, brought out by way of forcible illustration a case this. Supposing there was a square 8 or 5 acres away from the house of Trustee in question, although his house might not be directly affected by scheme, the placing of the square nearer or further away from his house ld be a matter directly affecting the scheme before the Trust for the time g, and, therefore, it was right and proper that the Trustee should not take in such deliberations. That in effect was intended to be the force of the ument and illustration that the Hon'ble Mr. Bompas wished to adduce at the . Taking it at that, are we not entitled to say that if you use the word ect' in so very wide a sense, there would be nothing to prevent the whole of affected area being taken up, if the Trust thought fit so to do, for various poses indicated herein, that it would be probably beneficial purely from the stee's point of view. That would certainly be a state of things that this dature ought not to countenance, although section 357 of the Municipal has been enacted in opposition to the unanimous recommendation of the ding Commission. The recommendations of the Building Commission still d so far as larger questions like these are affected. The then legislature ght that the principle then partially adopted would not be given effect ith regard to larger schemes that the Municipal Act contemplated at the . But when schemes affecting the whole of the town is considered, one to be very careful indeed; and the very slight modification that we to introduce will considerably allay public alarm. Nobody for a moment es to suggest that a sane Trust would think of taking up the whole or a considerable portion of the town because of this clause. If however is not the intention, I fail to see why the restricted clause should be cted to."

The Hon'ble Mr. Bompas said:—

"I do not quite understand from his speech exactly what the position of Hon'ble Member is. He accepts the principle of recoupment, although the ling Commission did not. But he wants it to be restricted in some way, he proposes to substitute for 'affect' the words 'materially benefited.' not see how this will, in any way, act as a restriction on the Board. says the land may be affected for better or for worse, and instead of being fited may be damaged. In such a case it would be to the advantage of rivate owner to have his land acquired. Naturally the power of acquiring for the purpose of recoupment will have to be exercised with great care, he Trust should suffer loss. This is the practical check on the exercise of power. The wording of the Bill is less wide than that of the Calcutta cipal Act which gives the Corporation power to take up any land which it s expedient to take up. This Bill follows the wording of the Bombay which has been in force since 1898, and, when in Bombay, I made careful ries as to the way in which this power of recoupment had been exercised, I could not find out that it had given rise to any public alarm or to any . It is to be remembered that, in acquiring land in the north of Calcutta a business part of any town, you have not only to pay for the land and but also heavy compensation for loss of earnings and damage done to ess. The acquiring authority is to be assured of a very substantial rise in rice of the land which it is proposed to be acquired, if it is to be guaranteed st loss in consequence of the heavy incidental unproductive expenditure.

That I think is a very substantial guarantee against the excessive acquisition of land for the purposes of recoupment in any crowded part of the town. I recommend that we adopt the exact wording of the Bombay Act. I think it is a delicate subject and I think it will be safer to follow the Bombay Act."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"That, Sir, is exactly what we are not doing. We are not adopting in their entirety the words that have been left out which might be a safeguard such as these words imply. The words 'as may be necessary' have been dropped out in the wording of the clause."

The Hon'ble MR. BOMPAS said:—

"I have already explained that the words 'will be refused' are in our clause 40 (*now 41*)."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"With regard to the Municipal Act we have to remember that the Chairman is given a certain amount of discretion under section 357 and we all know that discretion like this has to be judiciously exercised, and that it is a safeguard which is wanting in this clause. In the third instance, we must not forget that so far as the wording of clause (*a1*) [*now*(*a*)] is concerned, the mere opinion of a body like the Trust will be enough, having regard to the delicacy of the situation that has been referred to by my hon'ble friend. All these considerations make it necessary that as safeguards such as those are provided in the English Act, some restricting words should be used. If we refer to Acts other than the Act like the Working Men's Housing Act or the Land Clauses Act, we find that if Railway Companies or private Corporations take up any land that appears to be what is called superfluous under these Acts, the legislature takes care that unless it is disposed of in a particular way within a certain time then they must go back to the owners from whom they have been taken, under certain terms and conditions. Having regard to those considerations, I do not think that the restrictive safeguard would be altogether unnecessary or undesirable."

The motion was then put and lost.

236. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "consistent with, and necessary for the carrying out of the scheme" be inserted after the word "matters," in clause 41 (*now 42*) (*d*).

The Hon'ble MR. BOMPAS said:—

"Sir, if the Hon'ble Member would modify his amendment and would be content to insert the words "consistent with this Act" after the word "matters" I will accept it; without the words "consistent with this Act" the clause would be rather wide."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I accept that, Sir."

The motion was then put in the altered form and agreed to.

The following motions were, by leave of the President, withdrawn:—

Clause 44 (now 45).

237. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "sixty days" be substituted for the words "thirty days", in line 1 of clause 44 (*now 45*)(*1*).

Babu Deba Prasad Sarbadhikari; Mr. Bompas; the President; Babu Bhupendra Nath Basu.]

Clause 45 (now 46).

238. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the word "Act" be substituted for the word "section" in line 3 of clause 45 (*now 46*).

238. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words free of charge" be substituted for the last line of clause 45 (*now 46*).

He said:—

"I hope, Sir, I shall have the support at all events of the Hon'ble the hairman of the Corporation, in my desire to free the Corporation of a liability at may sometimes run up to a very considerable figure. The Corporation ill be very primarily and vitally affected in this matter. They will have to ay a fairly considerable sum and they ought to have these copies free."

The Hon'ble MR. BOMPAS said:—

"May I point out that the Corporation is not to pay but to receive is money?"

The PRESIDENT said:—

"It is not a matter of the Corporation paying but it is a question of the oney that they will receive from the Trust."

The motion was then, by leave of the President, withdrawn.

Clause 46 (now 47) (1).

240. The Hon'ble Babu Bhupendra Nath Basu moved that for the words hall consider", in line 4 of clause 46 (*now 47*) (*1*), the following be substituted, namely:—

shall hold a local inquiry, or appoint a Committee to hold a local inquiry, and the Board, or (if a Committee has been so appointed) the Committee shall hear.

He said:—

"Sir, this is rather an important amendment which I seek to move. The use as drafted is this, 'after the expiry of the periods respectively scribed, the Board shall consider any objection, representation and tement of dissent received thereunder.' To those who are ignorant of ilar procedure in the Corporation, it may appear that my amendment seeks provide what is already provided. Under the procedure as laid down, when improvement scheme has been framed, notices are given calling upon sons affected to submit objections within a certain time. They submit their ections within a certain time, and then their objections are considered. at I tried to press upon the Select Committee was this, that there should be aring given to these objections. There is no provision in clause 46 (*now 47*), now drafted, of any hearing being given. It may be said that when it is vided that the Board shall consider any objection it does imply that the Board ll give a hearing. I will tell you what happened in connection with section of the Calcutta Municipal Act. There the Municipality of Calcutta has the power to improve certain *bustees* which their Sanitary Officer may lare to be insanitary. There also the same procedure is followed. The eme is prepared and notices are given to the occupiers and owners and they mit their objections, and their objections are considered by a Committee he Corporation. The language of the Calcutta Municipal Act is this, en a complaint has been prepared by the General Committee they shall a date for the hearing of objections made by or on behalf of the owners he *bustees*. Well, Sir, there was a time when the Corporation would not hear objection. They said 'hearing' there meant that the objections should sent in and should be considered in chamber by the Committee of the

Corporation, and that a hearing should not be given. I happened to act professionally for one of its parties and I raised the contention that the parties should be heard. I forget who was the Deputy Chairman at the time. I am quite sure that my hon'ble friend Mr. Payne was not the Deputy Chairman, that 'hearing' *i.e.*, considering, meant that the objections of the parties would be considered by the municipal authorities, who, I take it, are just as much alive to public interests as the Board that is to be created, will be: although their words were that they should be heard. In the present Act we have omitted the word 'hearing' altogether and considering of objections."

What I seek to introduce is that the objectors must be heard and I make that submission fortified by the precedent in England. Assume that we have got the Act as the clause is now drafted, what is there to prevent the Board from considering the objections that are sent in without giving an opportunity to the parties to be heard and deciding upon that objection behind the back of the people concerned. There is nothing to prevent this, as they have got the statutory power to do so. Well, let us see what is the procedure followed in England. Under the Improvement Scheme of 1899 not only is a hearing given but the Local Government deputes a special officer to go down to the spot and hold a local inquiry in the presence of the people concerned, then, as we know, time was given and a fresh Act of Parliament was needed to carry out the improvement. The fresh Act of Parliament has been dispensed with under the later Acts. The latest Act of 1909 which deals with town-planning dispenses with the Parliamentary Statutes dealing with a particular scheme but it lays down certain procedure and clause (*e*) of section 56, of the Act itself says :—

'Provision shall be made by these regulations :—

(*a*) for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings, by means of conferences and such other means as may be provided by the regulations.'

"I will now see what the regulations provide. Regulation 3 of the 3rd May, 1910 runs :—

and shall endeavour, by conferences between the local authority or their officers and such owners, persons or councils, and by any other means available, to secure the co-operation of such owners, persons or councils in promoting the scheme.

The local authority shall arrange for at least one meeting being held, at which all such owners, persons or councils as aforsaid shall be entitled to attend or be represented, for the purpose of considering the proposed scheme. Notice of the time and place fixed for such meeting shall be served by the local authority upon all such owners, persons, or councils so far as they can ascertain the same, not less than fourteen days before the time fixed for the meeting.

My grievance has been that in such an important legislation we are more or less led—I say so without any offence because that is the fact—by amateur legislators. If an expert from the London County Council had been brought to advise us when the Bill was in the framing, much of the objections that we are raising to-day, and much of the time that we have been wasting, would have been avoided. I went down to these County Councils, and they say that, 'we not only hold one meeting but a series of meetings, but in no case is an improvement scheme carried out before at least half a dozen conferences.' Well, I tried to press upon the attention of the Select Committee to give these poor people at least the privilege of being heard and not to deal with them behind their back. But I suppose that enough experience even in India has been gained to satisfy officials that doing things always behind people's back is not after all the safest procedure, but apart from questions of high policy as a matter of urgent necessity, in the interest of the Board itself, for the purpose of conciliating public opinion, for the purpose of allaying public alarm, for the purpose of satisfying the people that justice if not done is intended to be done: for all these purposes I think that there should be a distinct provision in the Bill that the people who are

[*Mr. Oldham; the President; Babu Bhupendra Nath Basu; Mr. Bompas.*]

grieved must get a hearing from the Board, high and mighty as it is. I pose, Sir, that in this matter I shall get the support of all my colleagues his Council who are not tied down by the traditions of office. I am refer- r to the experience from England under the legislation so late as 1909— gislation which has consistently followed the earlier Acts of 1900. Sir, I e been grieved to see that in this Council and on this occasion official nbers have voted solid on one side. I have not, however, for a moment, plained or raised the question that they are not voting according to their ience, but time there was in this very Council, before it was re-constituted er the so-called Reform Scheme, when official members used to vote not use of a mandate but because of what they felt to be right and proper, hich, we the people of India, as well as the Government of India, have a n.

The Hon'ble MR. OLDHAM said:—

"May I rise to a point of order, Sir? Is it a fact that the official bers have got a mandate to vote for or against an amendment?"

The PRESIDENT said:—

"I think in any case the hon'ble member is wandering from the point."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, in this matter I appeal to the hon'ble members, and if I have been g I express to them my sincere regret, and none would be more glad than lf if I know that I have been in the wrong. I say, Sir, that this is the ice in England. Then why should not that practice be followed here? It te possible that the Board will follow that practice, but as in England there d be an express circular made under the authority of statutory power g down this safeguard. Sir, can we say honestly that in India the nstances are such that that right should not be safeguarded and can we urther that the people in this country have such great confidence in ls constituted under circumstances like these that for the purpose of ying them that justice is being done it is not proper, it is not desirable is not necessary to introduce express safeguards in the Statute? If we ay so, the experience of the past is on my side. The various criminal es of our Government are on my side which provide safeguards for the y of the subjects. I therefore humbly submit that the amendment asking ne people should be given a hearing is eminently just and I hope that it e adopted by the Government."

The Hon'ble MR. BOMPAS said:—

Sir, this amendment and the following amendments deal with a simple on of procedure. The Hon'ble Member has three amendments regarding 240, 242 and 243. He thought perhaps that amendment 242 was sly impossible of adoption and put in 243 as a possible substitute—one uld be adopted. His speech, although apparently in support of amend- 240, has dealt entirely with the point covered by his amendment 243. endment 240 lays down the procedure that the Board is to adopt after it ied notices giving details of the scheme—and here I must say I fail to t the Hon'ble Member had justification to speak as he has done about the doing things behind peoples' back. Surely clause 44 (*now 45*) that we ust passed, amply provides against anything like this. Under clause 44 the notice that will be issued will state that the Board propose to a particular land and the person affected is given sixty days' time to his objections, if he has any. Notice is also published in the newspapers. see what more publicity can be given than that. The whole question what is the Board to do when it has published this notice inviting ns, and when the objections are received? The Hon'ble Member has

referred to the Local Government circular under section 56 of the Town-Planning Act, but he knows that it has no relevance to improvement schemes. The whole procedure of town-planning schemes is based on entirely different principles. There is no question of acquisition of land: regulations are made as to the way in which landlords may develop their estates. Obviously, it is necessary to hold conferences with the landlords. So no exact analogy can be drawn from that. It is no doubt desirable that the people affected should have a full hearing. The Hon'ble Member in his amendment wants the Board to hold local inquiries. But he has not pressed that point, for he has not mentioned it in his speech. I suppose he has abandoned it and in that I think he is well advised, for often in a crowded part of the town or in a crowded *bustee* it is difficult to realize the true state of affairs on the spot; one cannot see the wood for the trees: the matter can be much more clearly understood in a quiet room with properly drawn plans before you.

"But apart from the question of holding a local inquiry. Is it right for the Committee to be compelled to give a hearing to any and every man of any position who has sent in an objection? The Hon'ble Member has cited the case of *bustee* owners. That I submit is a very different case. You have got the General Committee who are to arrange, in concert with *bustee*-owners, who represent a definite and limited interest, how that *bustee* can be best improved. The landlords may well say that the General Committee should discuss the matter with them face to face. It is a very different thing. We have an ample guide for us in the Bombay Trust. The amendment is unnecessary in regard to the provisions which have worked well in Bombay, and the burden of proof lies heavily on him who would say that by this procedure the Board will bring disaster and ruin in Calcutta.

"But take the case of the construction of a long and broad road like the Prince's Street in Bombay. Thousands of people were affected by the construction of that street, most of them of the lowest and the most ignorant classes. In such a case people of this class will submit numerous objections most of which obviously are of no value. If a man says that he wishes the improvement scheme to stay because his grandmother is lying ill, it is useless to give him a personal hearing on the subject. Speaking as a Government officer I can say that one receives from day to day objections and applications of all kinds, some of which are obviously absurd and must be summarily rejected. In some, the best form of inquiry is to depute an officer to make a local investigation. In others, again, it is clearly right to send for the petitioner and to give him a hearing. Every Government officer has to exercise his discretion in such matters day by day, and I submit that the Trust should be put in the same position. If this amendment is passed there will be a waste of public money and public time, and private individuals will also waste their time in being present at a personal hearing, which, in many cases, must be infructuous. I see no cause for alarm if the amendment is not carried. We have before us the precedent of the Bombay Trust. The latter has worked well in Bombay and I do not see that a more cumbrous procedure is required for Calcutta."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I do not think I am convinced by the argument that has been advanced by my Hon'ble friend, Mr. Bompas, and, if you will excuse my saying so, the very first argument that he adopted shows that he had not paid the same attention to the methods by which improvements are effected in England as we have been trying to do. He said that I was quoting from the Town-Planning sections of the latest Act. He will bear me out when I say that Improvement Schemes are done under the earlier Act of 1890, modified by the Acts of 1909. There are two schemes, first of all—Improvement Scheme under one Act and then the Town-Planning Scheme under another Act. Under the Improvement Scheme the procedure is much stricter, as I said, the procedure originally was that there should be Parliamentary Statute for every scheme. There is

a local inquiry held by the Local Government itself. I do not think it is necessary to read to my friend what procedure is followed in Improvement Schemes. Then my friend says that I have been quoting from the circular under the Town-Planning Act which has no relevancy, as we are dealing with Improvement schemes. I did not quote from the Act of 1890, because there the procedure is so complete and so perfect that I was afraid to ask this Council to adopt the procedure laid down by that Statute. If that procedure were adopted I should have nothing more to add but accept the measure with the greatest amount of gratitude that is possible to accord. But the Town-Planning Act considerably modified the rigours of the provisions that were introduced in 1890 for the protection of the public, for the experience of 20 years showed that those safeguards in their strictness were not necessary, and it was submitted that there were other safeguards in the Town Planning Act of 1909. If that argument of my Hon'ble friend is of any weight—what I was quoting was in reference to Town Planning—I say that Improvement Schemes have to be carried out under much more stringent conditions. Give me these, I abandon for good the safeguards under the Town-Planning Acts. My friend says that local inquiry is the least advantageous. Well, the experience of England has not justified that. Local inquiry was introduced in 1890, and it has been kept up to 1909. They have not found local inquiry disadvantageous. My Hon'ble friend was talking of the King's Road and of the Prince's Road in Bombay. Well, the King's Way in London from Holborn to the Strand is, I believe, a much more gigantic scheme than any which we, here or in Bombay, have had to face. There, not only was minute Regulations laid down for the protection of the public and the persons concerned, but in the Statute itself each interest was separately dealt with, and it was laid down as to how that interest was to be disposed of. My friend has said that it is quite possible that in a Committee a man may not attend and put forward a lame excuse for non-attendance. Well, that in itself is giving an opportunity of being heard, and if a person neglects that opportunity, it is his fault. If he cannot attend owing to his grandmother's illness, which he thinks to be more important to him from an Indian point of view, he will have judgment passed against him for default, but where people are willing and anxious to come and place their objections before you, what is the machinery that you have provided for inquiring into their grievances under your Act? There is no such thing as local inquiry.

"The Hon'ble Member says:—'Look at the elaborate provisions we have provided under clause 44 (*now 45*).' I have looked at them. What are the provisions? The provision is that there is to be a publicity. Is publicity all that is wanted? I am quite sure you would not like to take up lands in darkness and secrecy. What I want is this—where is the procedure under which you give me a hearing? Is it enough in a suit for money that summons is served upon the defendant, and, when the case comes up for hearing, he has not got to be present there and to represent his case before the Courts. Thus, the procedure under clause 44 (*now 45*) is nothing. My Hon'ble friend will excuse me for making a personal allusion. He is going to be the President of the Board, and if he thinks that giving notice is all that is necessary as a safeguard in the interests of the persons affected, we can easily imagine what the operations of that Board will be like in Calcutta. My friend says again, 'Look at the example of Bombay, Bombay is not complaining.' Does he know what the Bombay people think about this Improvement Trust, in the same way as I know? He does not know. Officials do not know. I have been to Bombay, where the people are crying out the iniquities of the Improvement Trust. You seem to think that once this has been enforced in Bombay, the Bombay people are satisfied. They are not satisfied: they are very much dissatisfied. If you mix with the people, you will learn what the feeling in Bombay is about this measure. I say that your clause as drafted is no safeguard, I say absolutely none whatever, and some safeguard is necessary. It is quite true, as my friend says, that my amendment is more comprehensive than what I have been speaking about—I am speaking of the least that I want, not of the most that I should

[*Mr. Bompas; The President; Rai Sita Nath Ray Bahadur.*]

like to have. I have asked for a Committee of Inquiry just as they have in England. If you do not give me what your countrymen give to people in England, I have nothing more to say: but give me at least a hearing; that is all I want."

The Hon'ble MR. BOMPAS said :—

"I omitted to mention that part of the Hon'ble Member's speech. Am I in order, Sir, to do so now?"

The PRESIDENT said :—

"No."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"My amendment is also to the same effect—that a hearing should be given, and I wish to speak a word or two in support of the above amendment."

The PRESIDENT said :—

"You are not in order now as the Hon'ble Mover has replied as far as his particular motion is concerned."

A division was then taken with the following result :—

Ayes 16.

The Hon'ble Babu Bhupendra Nath Basu.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.
The Hon'ble Maharaja Manindra Chandra Nandi.
The Hon'ble Babu Deba Prasad Sarbadhikari.
The Hon'ble Mr. J. G. Apear.
The Hon'ble Mr. Golam Hossein Cassim Ariff.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. Dip Narayan Singh.
The Hon'ble Babu Bal Krishna Sahay.

Noes 28.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Mr. T. Butler.
The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr J. G. Cumming.
The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Mr S. L. Maddox.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr. G. W. Küchler.
The Hon'ble Mr. L. F. Morshead.
The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
The Hon'ble Mr. C. F. Payne.
The Hon'ble Mr. H. J. Hilary.
The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr F. H. Stewart.
The Hon'ble Mr. W. J. Bradshaw.
The Hon'ble Maulvi Sayid Zahir-ud-din.
The Hon'ble Mr. T. R. Filgate.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.

[*Babu Bhupendra Nath Basu; Rai Sita Nath Ray Bahadur; Mr. Bompas.*]

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Maulvi Sarfaraz Husain Khan.

The result of the division was Ayes 16, Noes 28, and the motion was therefore lost.

THE following motions were, by leave of the President, withdrawn :—

241. The Hon'ble Babu Bhupendra Nath Basu to move that after the words "received thereunder", in line 5 of clause 46 (*now 47*) (*1*), the following be inserted, namely :—

and (if a Committee has been so appointed) the Board shall consider the report of such Committee.

242. The Hon'ble Babu Bhupendra Nath Basu to move that before the word "may", in line 5 of clause 46 (*now 47*) (*1*), the following be inserted, namely :—

after hearing all persons making any such objection, representation or dissent, the Board.

243. The Hon'ble Babu Bhupendra Nath Basu moved that before the word "may", in line 5 of clause 46 (*now 47*) (*1*), the following be inserted, namely :—

after hearing all persons making any such objection, rrepresentation or dissent who may desire to be heard, the Board.

He said :—

"Sir, this is an appeal *ad misericordiam*. This is the least that I can ask and which we shall be pleased to have. I do not know whether the arguments are the same. We do not seek to interfere with it, but ask you to give a hearing to such of us as may desire to be heard."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"Sir, my amendment is also to the same effect. The functions of the Improvement Trust are exactly analogous to the functions of the Calcutta Municipality. The Calcutta Municipality have been known to carry out schemes, like the Harrison Road scheme, at a cost of forty-four lakhs of rupees. In the Municipality it is a daily occurrence to allow parties to be heard whether in the matter of *bustee* or any other matter. There is also provision for putting notices in the official gazette. The whole object is to give every publicity to the scheme. But no provision is made in this Bill for hearing objections. If in a proceeding in a Court of Law, when a complaint has been made and written statement has been filed, the Magistrate says that he would not hear the pleaders, but would decide the case in his own chamber, it becomes absurd. It will be almost the same thing if you take every care to give publicity to a scheme and refuse to grant hearing to the parties affected."

The Hon'ble MR. BOMPAS said :—

"I am afraid that some Members of this Council may be feeling confused by those references to English precedents which I decline to follow. I will, however, take this opportunity of briefly explaining the position. In England there is a general Act which deals with the whole country, and empowers any Municipality or County Council to prepare an improvement scheme and submit it to the Local Government Board for sanction. It is then provided that the Local Government Board should depute an officer to hold an inquiry. A general Act of that kind is clearly different from this Bill, which constitutes a

[*Babu Bhupendra Nath Basu; Rai Sheo Shankar Sahay Bahadur; Mr. Wheeler.*]

special body to deal with Calcutta alone. I accept this amendment because it is one to which no reasonable man can take exception, and because it merely prescribes for the Trust, a course of procedure which it would in any case undoubtedly follow.

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir, I have to express my hearty thanks to the Hon'ble Member in charge for having accepted this amendment. English precedents may go back to the place from where they come, so long as he listens to our humble representations; that is all we want."

The motion was then put and agreed to.

The following motions were, by leave of the President, withdrawn :—

244. The Hon'ble Ray Sita Nath Ray Bahadur to move that the words "hear and" be inserted after the word "shall" in line 4 of clause 46 (*now 47*) (*1*).

245. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that after the word "and", in line 5 of clause 46 (*now 47*) (*1*) the following be inserted, namely :—

after hearing any of the persons, making such objections, representations or dissents, who desire to be heard.

Clause 46 (now 47) (2) (f).

248. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "of the poorer and working classes" be substituted for the words "(and particularly of persons of the poorer classes)", in clause 46 (*2*) (*f*).

The Hon'ble MR. WHEELER said :—

"I think, Sir, that the amendment may be accepted. It will be observed that the reference to re-housing schemes in this clause is merely to them as one of the particulars, details regarding which are to be submitted when a scheme comes up to the Local Government. Clause 46 (*now 47*) *2* (*f*) really depends upon clause 50A (*now 52*), and the arguments which we are now considering are those which apply to that clause.

In the Bill as introduced clause 40 (*f*) required that the schemes should provide for the construction of dwellings for persons displaced by the execution of schemes and of shops for the use of such persons. When the matter was dealt with in Select Committee, we substituted a separate clause, which is 50A (*now 52*), dealing specially with re-housing schemes. A certain amount of opinion was then expressed that these re-housing schemes should be confined to people of the poorer and working classes. In the previous discussions of the Bill it had merely been contemplated that measures should be taken generally to re-house the persons displaced but in view of the feeling on the Select Committee and of the English and Bombay precedents, we required, as a compromise, in clause 50A (*now* 52 (*2*) that, in framing a re-housing scheme, the Board shall have *special regard to* the needs of people of the poorer and working classes. Another very important point will also be observed, namely, that under clause 50A (*4*) (*now 52* (*3*)) it is provided that the Board shall not themselves construct dwellings or shops under a re-housing scheme unless they are satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Board.

"That is how the Bill stands as it emerged from Select Committee but it is still obvious that certain Members are not entirely satisfied with its provisions, and wish to say absolutely that, except for the poorer and working classes, re-housing schemes shall not be undertaken. The analogy

of the Act for the Housing of the Working Classes is not entirely in point, since that Act dealt specifically with people of the poorer and working classes, while the Bill provides for the improvement of Calcutta generally. However, some precedents may be claimed, based on the Bombay Act, and in so far as the schemes undertaken will deal largely with the congested areas, the majority of the people displaced by them will probably be of the poorer an working classes. As regards others, it is probable that private enterprise wil. be more likely to be forthcoming to meet their needs, and, if so, the Board would be debarred from building on their account under clause 50A (4) *now 52 (3)*]. In all the circumstances, it is probable that the amendment will merely represent the actual working of the Act, and it provides undoubtedly for the most important class to be re-housed and the one most likely to need the assistance of the Board. In the view of certain Members the amendment is desirable, and the Local Government does not wish to oppose its acceptance."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"That necessitates a definition of the working and poorer classes."

The Hon'ble MR. WHEELER said :—

"That is a point which will come up later."

The motion was then put and agreed to.

246. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "having an income of less than one thousand five hundred rupees a year" be inserted after the word "persons", in line 2 of clause 46 (*now 47*) (*2*) (*f*).

He said :—

"Sir, in view of the concession that the Hon'ble Mr. Wheeler has been good enough to make, I do not think it necessary nor expedient for me to press for any arbitrary limit of income to be placed on the Statute. Of course, with regard to the English Acts, there is a well defined standard of rules that guides the situation, and I have no doubt that in working out a clause like this here, rules will be forthcoming which will enable us to steer clear of likely difficulties It is necessary in a matter like this to leave matters largely at the discretion of the executive, and, therefore, I do not press for fixing a limit of the income."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn :—

247. The Hon'ble Mr. Apcar to move that the words "of the poorer classes" be substituted for the words "(and particularly of persons of the poorer classes)", in section 46 (*now 47*) (*2*) (*f*).

249. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the words "of the poorer and working classes" be substituted for the words "(and particularly of persons of the poorer classes)", in clause 46 (*now 47*) (*2*) (*f*).

249A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "of the poorer and working classes" be substituted for the words "(and particularly of persons of the poorer classes)" in clause 46 (*now 47*) (*2*) (*f*).

250. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and require re-housing" be added at the end of clause 46 (*now 47*) (*2*) (*f*).

[*Mr. Wheeler ; Babu Deva Prasad Sarbadhikari ; Babu Bhupendra Nath Basu.*]

He said :—

"I should like to add these words, Sir, if the Hon'ble Member sees his way to accepting this. It is only with regard to people require re-housing I take it that a scheme like this is to apply; and, therefore, the addition of these words would make the situation clear and the object more definite."

The Hon'ble MR. WHEELER said :—

"We do not consider that the amendment is desirable, Sir, because it rather overlooks the practical method in which these re-housing schemes would be undertaken. The proposal is that provision should be made for the re-housing of the poorer and working classes *who require re-housing.* But it is practically impossible to define beforehand who will require re-housing. It will be observed that clause 50A (*now 52*) allows arrangements to be made for the persons who are displaced or *who are likely to be displaced,* and the procedure in practice will presumably be that the Board will make as good an estimate as it can of the numbers likely to be displaced by any scheme which it may undertake, will decide where they can best be accommodated, and will there erect a certain number of quarters. People will then apply to occupy them, and among these will presumably be those who have been displaced and require re-housing. It would be impossible to ask every man who will be dislodged 'Do you require a new house and where do you wish it to be built?' Buildings will be erected, and people can go to them at their option. The amendment in practice would have no benefit, and I recommend that it should not be accepted."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I should like to press it, Sir, for the very reasons that have been mentioned by the Hon'ble Mr. Wheeler. Unless you proceed according to the actual requirements of the case, the Trust is likely to have tenants of the kind that the Hon'ble Rai Sita Nath Ray's model building in Bhawanipore had not long ago. The poor people, who will be displaced by the operations of the Trust, will find Calcutta the best place to live away from, and if because of the displacement you are to undertake building of tenements for their accommodation, the chances are, I am afraid, certain that these tenements will be tenantless as the Hon'ble Rai Sita Nath Ray Bahadur's model *bustee* was for a long time. I do not know what has happened to it now, but for a long time it was one of those white elephants that an enterprising and public spirited landlord wanted to set by way of an example to the neighbourhood. Therefore, I think actual requirements ought to be the best guide with reference to a matter like this, and it ought not to be very difficult to find who require re-housing. I think it is necessary because of the concession that my Hon'ble friend has been good enough to make."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn :—

250A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and require re-housing" be added at the end of clause 46 (*now 47*) (*2*) (*f*).

Clause 46, (now 47) new sub-clause (3).

251. The Hon'ble Babu Bhupendra Nath Basu moved that after clause 46 (*now 47*) (*2* the following be inserted, namely :—

(*3*) When any application has been submitted to the Local Government under sub-section (1), the Board shall cause notice of the fact to be published for two consecutive weeks in the Calcutta Gazette and in local newspapers.

He said :—

"Sir, it requires simply giving a notice that the scheme has gone up to Government for sanction".

The Hon'ble Mr. WHEELER said :—

"The argument presumably is that the public should know when a scheme has been submitted to Government for orders, in order that they may approach Government on the subject if necessary. We see no objection to accepting it."

The motion was then put and agreed to

New clause 46A.

252. The Hon'ble Mr. Apcar moved that after clause 46 (*now 47*) the following be inserted, namely :—

46A If on consideration of the application made under section 46 (*now 47*) in respect of any improvement scheme, and on proof of the publication and service of notices in respect thereof under sections 42 (*now 43*) and 44 (*now 45*), the Local Government thinks fit to proceed with the scheme, it shall direct a local inquiry to be held in, or in the vicinity of the area comprised in the scheme, for the purpose of ascertaining— 46A

(*a*) the correctness of the official representation made as to the area and the sufficiency of the scheme, and

(*b*) the validity of any objections, representations and statements of dissent received under section 42, (*now 43*), clause (*i*), section 43 (*now 44*) or section 44 (*now 45*), clause (*b*), in respect of the scheme

He said,—

"Your Honour, this amendment is for the purpose of obtaining, when the Local Government thinks fit to proceed, a local inquiry into a scheme that has been submitted to them for sanction.

"Under clause 47, (*now 48*) the Government undertake to sanction, with or without modification, or to reject, any improvement scheme submitted to it.

"To take the question of modification. What does modification of a scheme imply? Surely not that the Government will be content merely with a glance at a map or plan of the scheme submitted, to arrive at a decision on such information and material only. There may be objections, and very valid objections, by an owner or occupier. Is there to be no consideration of them, to see whether or not there should be any modification to meet such objections? Again, it may happen that an influential proprietor has objections to a scheme, and may obtain a willing hearing from an officer of the Government, and, on the materials submitted, a ready and apparently very just acquiescence given so far as the petitioner may be concerned, to meet his objections. But a modification in his favour may seriously prejudice a poor neighbouring proprietor—and such results are possible and should be provided for—who may suffer irreparable injury by such a proceeding if carried into effect. Is such a person not to obtain any consideration? I am confident that the Government would not knowingly be a party to any such injustice. But how is the truth to be arrived at in the easiest and yet in a sufficiently efficient manner? I am not attempting to impose any burden on the Local Government wantonly. In England every scheme is submitted for confirmation to the Local Government Board, just as it is proposed by this Bill that schemes are to be submitted to the Local Government. And if the Local Government Board think fit to proceed, they direct a local inquiry, just as I propose that the Government here should do. And I do not understand, if the work is to be treated seriously, how an inspection by the Government is to be avoided. The Local Government Board declare the limits of an area comprised in a scheme, and without a local inquiry it would

necessarily be a perfunctory proceeding: is the Government to stand practically aloof on such a very important question?

"As the Local Government Board have become more accustomed to their functions and their practice has become more settled, they have been given more discretion; but nevertheless I do not ask the Council to enact any provision except such as now is in force in England.

"A local inquiry, among other things, gives persons interested a full opportunity of being heard. And we know how important it is to give the people of this country the fullest opportunity of being heard. Even if a decision is against them, if only they have had a full opportunity of being heard, they are almost content. On the other hand, if they have not had that opportunity, we know how exceedingly, and I may say how disproportionately, discontented they remain, and how they nurse their grievance. Objectors obviously could not be allowed to crowd into the office of the Local Government Board at Whitehall, and it might be wholly impracticable to institute a formal investigation. I do not suggest that petitioners should be permitted to crowd into the Bengal Office, or that there should be a formal investigation of the nature of a judicial inquiry instituted by the Government here. The easiest way is to send down an inspector to make local inquiry. This has been found to be satisfactory and to answer the purposes required in England, and I only ask that the same method should be adopted for Calcutta. The Government could be relied upon to send down a fit and proper person who, with experience and practice, would soon become capable of doing all that would be required: and the Government would soon get a trained staff of so many officers as may be needed for the purpose of such inspections. The Government would thus be in a position to act for themselves, on local information, in respect of issues that may arise, and not be dependent entirely on the Board.

"There is no indication yet that the Government intend to consitute an expert department of the character of the Local Government Board in England, as was foreshadowed by Lord Morley in his famous despatch. I would ask, is such action contemplated by Government? Or to strengthen their present Municipal Department to deal with matters arising out of the operations of the Board. On an appeal made to him in Parliament, Mr. John Burns, in the course of the discussion on the Town-Planning Act, announced with what staff in the Local Government Board he intended to work to give effect to that Act, and it would be a satisfaction to us to be reassured on the point in the present question. If the Government intend to look to the Board as their expert department for the purposes of the Improvement Act, it would be a matter of serious concern to Calcutta. However zealous and conscientious the members may be, the Board will form the executive and administrative body, among whom much authority will necessarily gravitate to a single individual among them, that is to say, the President, to carry out a law of immense importance, and it will be a danger and a source of much dissatisfaction if they were entrusted with powers of such an unprecedented character and were made absolute masters of the fate of Calcutta

"There is no suggestion in clause 47, (*now 48*), or in any other part of the Bill, that the Government need consider any scheme submitted to them before issuing sanction It seems to be a serious omission. It is impossible to believe that it is not intended to make a sufficient inquiry, and if there is any intention, as we may naturally and fairly assume there is, on the part of the Government to investigate for themselves, before giving their sanction to any scheme, I submit for consideration a system which has been in force for many years in England. It has stood the test of practical experience and has been found to be satisfactory by all parties, by the local authorities, by the Government and by the public, and I now hope that it may commend itself for acceptance in the Bill. My proposal should have the sympathy of the Hon'ble Member in charge who, when replying to me in Council on behalf of Government on the occasion when the Bill was referred to the Select Committee, declared that the similarity

between the provisions of this Bill and the law in England were very close indeed, and the Government would consider schemes as the Local Government dealt with schemes in England.

"I have no idea of imposing a set of cumbersome rules of procedure on the Government. The Government may make such local inquiry as they may think fit My purpose would be served if the public of Calcutta, where it is very much more required, obtained, as it is secured by law in England, active control and supervision over the Board by the Government. I submit that it is required in the public interest as a practical measure, and I venture to suggest that it is a compliment to Government that we should seek it."

The Hon'ble Mr. Bompas said:—

"Sir, it is very difficult to know from which direction the critics of the Bill will attack me next. The Hon'ble Babu Bhupendra Nath Basu has got two amendments which practically seek to attain the same object which the Hon'ble Mr. Apcar has got in view, viz., that when the Trust has completed its inquiries and framed its scheme and submitted it for sanction to the Local Government, the Local Government should send an officer to check the scheme. Sir, in the whole of the first day's debate we heard that the official was a bad man and the non-official was a good man and that the Trust was a bad Trust because there was not enough of the non-official element in it. The Hon'ble Member asked that this Trust should have a large non-official element, and now he asks that the work of the Trust which is, after all, mainly non-official should be controlled and checked by some officers of Government. The Hon'ble Mr. Apcar hopes that the Government will create a trained expert staff to guide, control and check the Calcutta Improvement Trust. This, Sir, I will say, is not probable. I may say it is practically impossible Supposing that this amendment were passed, the effect will then be that the Commissioner of the Presidency Division or a Superintending Engineer would be sent down to hold a summary investigation of a scheme which the Board with its experienced staff has been maturing for months. Of course it cannot be said that the reference to Government will be merely formal. Government will doubtless send officers to check any scheme which, in its opinion, demands such investigation. I submit it must be left to Govenment to hold an inquiry where it is suitable in any particular case. A local inquiry by an officer sitting in an insanitary *bustee* may be a worse than useless form of inquiry. The precedent quoted by Mr. Apcar is not a precedent in point. The English law provides for the framing of schemes by any local authority in England. The Local Government Board has to send somebody down to see whether the schemes are satisfactory and to see whether they are *bonâ fide*. If we pass an Act of a similar kind for the mufassal towns, then it will be necessary for Government to provide for some officers to check schemes. But here we have created a special Trust with special funds to do its work, and I submit that it is most unbusinesslike to prescribe interference on the part of the Local Government in every case."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"Sir, some may have playfully called individual officials names, but none, as far as I know, has called the Government a 'bad' Government, and I hope my Hon'ble friend will not do it. What is the object of these schemes coming up before the Government, if the unfortunate official is to be thoughtfully insured against going out in the sun for an hour? I think that was the objection to an amendment of mine indicated by the Hon'ble Mr. Bompas.

"If the Government is to have real control, as I have no doubt it intends to have, instead of this anxiety for insurance against unfortunate officials exposing themselves in the sun in insanitary areas, check, of a real nature ought to be provided and check to be anything of a real character, must be exercised upon proper inquiry such as can be made easier on the spot. In connection with another matter, when it was

the question of the Board deputing a medical officer to check the work of the Corporation, in connection with the Corporation making the official representation, my Hon'ble friend drew a picture, not very complimentary to the Board itself, of a medical officer of one year's standing going and interfering with the experience of the Health Officer of the Corporation. I do hope and trust that the Board will not expose itself to any criticisms of the kind like that foreshadowed by my Hon'ble friend. So far as the check on the Board is concerned, the Government can be trusted, and it has an expert machinery that can deal with these things, and deal with them effectively. I do not understand this desire of differentiating between this Improvement Scheme of ours and other schemes, because it is confined to Calcutta and is not for the present to be extended to the other towns of Bengal. My Hon'ble friend has just indicated that when a general Town-Planning Scheme is brought into operation, probably a safeguard like what we advocate would be necessary. I do not know, Sir, when that general Town Planning Scheme will come. Its near approach has been predicted in the other province, and from what I can see we may have it soon. Some wise newspaper gentlemen have been advising our mufassal members that it is no concern of theirs to interest themselves in amendments in which they are not directly concerned at the present moment. My Hon'ble friend's indirect announcement may be of interest to our mufassal friends, and they may from now be fortified as to how a general Town-Planning Scheme is to be framed. We do not understand how this differentiation from the English Act—the doing away with safeguards of the English Acts—is to be admitted because the scheme is to be confined to Calcutta. Calcutta is not a very small town. It is not one of those petty little bodies which is dealt with by local authorities in England under the recent Acts. It is a vast area which will be added to in the course of time by exercise of the provision of the amalgamation that we have in the clauses that we have passed. Therefore, it will be of the greatest advantage to have these healthy checks in a proper form betimes; and if the Trust is not able to exercise that check at the mature stage of any scheme, where is the harm and objection to the Local Government exercising that check and that being statutorily provided for? Sir, we have a very long series of amendments, and there is not time enough to go into details. But I may go back for one moment to some things that have taken place in the Calcutta Corporation in the past. When one realizes the gravity of a situation that I am going to remind Your Honour, one feels that the necessity of local investigations now and again is very great. I have it on the authority of a very old and experienced and capable Municipal Commissioner, Babu Kallynath Mitra, C.I.E., whom the Government delighted to honour with a high title. On an occasion, not so very long ago, a Committee of which my informant was a member, received late in the afternoon an urgent summons to meet the Health Officer and the Chairman at a particular place, because there was a highly insanitary tank that required immediate filling up, and there was no time to be lost—not even time to call a meeting—and they must go on to the spot to decide and accept a contract which I think was ready. However, in the early hours of the morning Babu Kallynath Mitra, the late Raja Rajendra Lal Mitra Bahadur, and others and the Chairman were there with the Health Officer; but the tank was not there. They looked about; the report was there of its insanitary condition; but only the tank was not to be found. 'Where is the tank' inquired Dr. Rajendra Lal—from the doctor. The doctor looked about and said 'my subordinates must know.' The subordinates appeared, but could not say where the tank was, and the doctor's caustic observation was that in big entertainments such matters must be negligible; this is a matter of history which might be referred to the records of the Corporation for verification, if necessary. I have it on high authority, Sir, of a gentleman who narrated the incident in the presence of my friend to the left. The tank could not be discovered, and the result of it was that the tank could not be filled up. Such things are extremes no doubt, but a local inquiry at some stage may help in getting rid of an awkward situation like this. Though things happen rarely, this plea for local investigation by

[*Babu Bhupendra Nath Basu.*]

Government, at all events before the thing is finally decided, ought not to be resisted in the way, I am sorry to say, it is resisted. We have no local inquiry provided for by the Statute anywhere, and I think it should be at the initial stage before much expenditure has been incurred. As that has been resisted, it ought to be at a later stage. But at some stage or other such an investigation ought to be possible under the Statute itself."

The Hon'ble Babu Bhupendra Nath Basu said:—

"There is only one thing that I should like to inquire from my friend opposite. What is the object of a reference to Government? It means perhaps some sort of control. Some further inquiry or examination at least of schemes. How is that to be secured at present? So far as we know, Government has no machinery at its disposal. There is not the same machinery as they have in England, of a Local Government Board. We have got here a Member in charge of Local Self-Government, but in this case, which requires technical knowledge, I do not know that we have got any such department at present to advise the Government. My friend to my right, the Hon'ble Babu Deba Prasad Sarbadhikari, says that there is a Sanitary Department of the Government. I do not know whether this department is sufficiently well equipped for the work, but I do believe that it is the intention of my friend opposite and of the framers of the Bill, that this clause is introduced as a safeguard for further consideration in case any consideration was required. If that is so, and I assume it is so, how is that further consideration to be secured? I quite agree with my friend when he says that with an expert body especially created like the Board, with a highly paid official at its head and a staff of highly paid engineers to advise it, it will be difficult and sometimes rather perplexing if a Government not well equipped is to interfere. But I admit the force of that argument. It does not follow that because the Government makes some inquiry, it should upset the resolution of the Board. There has often been difference of opinion between a subordinate and a higher authority, as it is evident from the way in which Government sends back some points for further information or for elaboration of further details—things which are nearly every day done in Government departments. In order to secure the object of this amendment, some inquiry may be held so that Government itself may be satisfied what has been done has been properly done. I do not think that any Government would lightly set aside the recommendation or the resolution of the Board of Trustees, at the same time this is intended to be a safeguard. Let a real safeguard and not a nominal one be provided. If you are giving a safeguard, I do not think that the measure we have suggested is not so well suited for the purpose. You, gentlemen, may be able to advise us better as to how the powers may be exercised with benefit to the public and with profit to the Board. A Secretary, very busy with his own department and having lots of things to look after, can hardly be expected to examine the details of a complicated scheme which may come from the Board of Trustees, requiring a lot of technical matters to be looked into, and this is the reason why we want a safeguard.

"My friend, the Hon'ble Mr. Bompas, has said that it has been suggested that the official is a bad man and the non-official is a good man. Though I happen to be a non-official, I do not think I may claim the honour of being a good man, but I have never suggested that officials are bad men. Officials are very good men, and we are hardly fit to dust their feet. But apart from that, I do not think that there is any such suggestion. I am afraid, it is what has been said in olden times by a great poet, 'a guilty conscience makes cowards of us all' that is behind the expression of that opinion of my hon'ble friend, Mr. Bompas. We should be the last persons to accuse the officials from whom we have received so much in the past and expect a great deal more in the future."

[*Mr. Apcar.*]

The Hon'ble MR. APCAR said:—

"The Hon'ble Member in charge is not very well informed when he says that we are attacking him when we are asking for official inquiry, and he is surprised that we should endeavour to have control by Government. If he had been well informed, and no one would have been better able to inform him than Sir Edward Baker, he would have known that I have for very many years past, even with reference to the Corporation of Calcutta, insisted on the great necessity of the control by Government—a well-informed and independent Government control. I think that it is very necessary that there should be control of public bodies by Government. I daresay the Hon'ble Member sitting next to the Hon'ble Member in charge (the Hon'ble Mr. Wheeler), may perhaps have information about my views on this question. But I am sorry that any such suggestion as I have made should be supposed in any way as an attack on the Hon'ble Member in charge. The great Corporations in England—of Birmingham, Manchester and Liverpool—do not feel it derogatory to have a control by the Local Government Board—the Corporations that have been founded so many years ago and have earned such renown—and I do not know why the Board, which has not yet come into existence, should feel resentment that there should be a control. I am now thinking only of the public, and when the law says that the Government are to sanction the scheme with or without modification, I want to know what is going to be done. Is it going to be a perfunctory sanction? Is Government to rely, as the Hon'ble Member in charge implies, entirely on what the Board may do, and to accept whatever they do as sufficient and not to make any further inquiry about it? I think that would be the case if my amendment is rejected. I feel more strongly than before that, where sanction is to be given by the Government it ought to mean something, not that everything should be left to the Board and for the Board to be the expert advisers to the Government."

A division was then taken with the following result:—

Ayes 12.	*Noes 29.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
	The Hon'ble Mr. E. W. Collin.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. C. J. Stevenson-Moore.
	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. E. P. Chapman.
	The Hon'ble Mr. J. G. Cumming.
	The Hon'ble Mr H. Wheeler, C.I.E.
The Hon'ble Mr. Saiyid Wasi Ahmad.	The Hon'ble Mr. B. K. Finnimore.
	The Hon'ble Mr. S. L. Maddox.
	The Hon'ble Mr. B. C. Mitra.
	The Hon'ble Mr. G. W. Küchler.
	The Hon'ble Mr. L. F. Morshead.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.	The Hon'ble Mr. C. H. Bompas.
	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
	The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble H. J. Hilary.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Lieut.-Col. G. Grant Gordon, C.I.E.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr F. H. Stewart.
The Hon'ble Babu Braj Kishor Prasad.	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
	The Hon'ble Mr. T. R. Filgate.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Babu Bal Krishna Sahay.

The following members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Dr. Abdulla-al-Mamun Suhrawardy.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The following members abstained from voting:—

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Babu Mahendra Nath Ray.

The result of the division was Ayes 12, Noes 29, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn.

Clause 47 (now 48).

253. The Hon'ble Mr. Apcar to move that before the words "The Local Government," in the line 1 of clause 47 *(now 48)*, the following be inserted, namely:—

After receiving the report made upon such inquiry.

254. The Hon'ble Babu Bhupendra Nath Basu to move that after the words "The Local Government," in line 1 of clause 47 *(now 48)*, the following be inserted, namely:—

after deputing a special officer to inquire into the objections, representations and statements of dissent referred to in section 46 *(now 47)*, sub-section (1).

255. The Hon'ble Babu Bhupendra Nath Basu moved that after the words "The Local Government," in line 1 of clause 47 *(now 48)*, the following be inserted, namely:—

after due and proper inquiry.

He said:—

"Sir, I think my friend will accept this amendment. Clause 47 *(now 48)* provides that the Local Government may sanction either, with or without modification, or may refuse to sanction any improvement scheme submitted to it under clause 46 *(now 47)*. What that inquiry is to be is entirely optional with the Local Government."

The Hon'ble Mr. Bompas said:—

"I resist this amendment, Sir. The clause as it stands confers power upon the Local Government to do certain things and I trust, we may assume, especially as we have heard just now that the Government is good, that Government will not act without such due and proper inquiry as may be required by the circumstances of the case. I distrust the amendment, although it seems harmless, because in his rejoinder referring to a similar amendment to an earlier clause the Hon'ble Member intimated that the words might give an opening to the Civil Courts to intervene and upset a whole improvement scheme

on some technicality relating to the nature of the inquiry held. That is a risk which I should be unwilling to incur."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I think I may assure my hon'ble friend, and the Hon'ble Standing Counsel will probably support me in that view, that the Civil Court will interfere, whatever the state of the law may be, upon proper materials and under proper circumstances. This is a 'superstition' of which my hon'ble friend will not care for."

The Hon'ble MR. APCAR said:—

"Sir, it is unfortunate that we have been given no assurance as to what an inquiry will be, but after all the work of the Government is carried on by Government officials, and there may not be consideration given to a subject so far as an inquiry is concerned. I think that alarm is expressed, because apparently the Bill indicates the probability of there being no inquiry at all and no active supervision or control by the Government."

The motion was then put and lost.

256. The Hon'ble Mr. Apcar moved that the following be added to clause 47 (*now 48*), namely:—

> The Local Government, in sanctioning an improvement scheme, shall declare the limits of the area comprised in it.

He said:—

"Sir, this is a very simple matter. The Government does not desire to consent to a local inquiry. In such a state of things we want some declaration by the Government of what the limits of an area will be. We want to get some assurance that there has been some control exercised in a matter of such great importance. Now, as it is, 'any' area can be declared. The area is not required to be restricted by such a word 'certain' area, and I think that it is only right and proper that, when the Government are sanctioning the scheme, they should also say what are the limits of that area. I cannot understand why that should not be accepted."

The Hon'ble MR. BOMPAS said:—

"I think the Hon'ble Member has forgotten the provisions of clause 42 (*now 43*) of the Bill. A precise statement of the boundaries of the area comprised in a scheme is a necessary part of a scheme, and in sanctioning the scheme Government also sanctions the boundaries, what the Hon'ble Member asks for is contained in clause 42 (*now 43*). I hope the Hon'ble Member will withdraw his amendment."

The Hon'ble MR. APCAR said:—

"Sir, I certainly shall not withdraw my amendment. The Local Government Board have to sanction a scheme just in the same way. There is a provision in the English Statute which says, after receiving the report of the local inquiry suggested, the confirming authority should declare the limits of the area comprised in the scheme and authorise such a scheme. In England the Local Government Board must declare the limits. I do not know why the Local Government here should not be required to do what the Local Government Board must do."

The motion was then put and lost.

[*Rai Sita Nath Ray Bahadur; Mr. Slacke; Babu Deba Prasad Sarbadhikari; Mr. Wheeler; Babu Bhupendra Nath Basu.*]

Clause 49 (now 50).

257A. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "fifty thousand rupees" be substituted for the words "five *per cent.* of such cost," in lines 2 and 3 of proviso (*a*) to clause 49 *(now 50)*.

He said:—

"The proviso to clause 49 (*now 50*) is somewhat vague and meaningless. A particular improvement scheme may estimate to cost, say, Rs. 40,00,000 (forty lakhs of rupees). If the Board were to alter such a scheme, and if the alteration results in an increase of the original estimate of cost by over, say, 3 per cent., then the additional expenditure would come up to a lakh and twenty thousand rupees, which I beg to submit, being beyond the pecuniary limit of the Board's jurisdiction, must necessarily require the sanction of the Government; otherwise the expenditure would be illegal. The Bombay Act, however, requires fresh sanction of the Government in case the cost of the altered scheme exceeds the cost originally sanctioned, by five thousand rupees. This, I must say, will go to hamper the Board at every stage if they were compelled to run up to the Government for fresh sanction whenever the cost would be exceeded even by such a trifling amount as five thousand rupees."

The Hon'ble MR. SLACKE said:—

"I would not accept the Hon'ble Member's amendment, because it seems to me desirable to adopt the principle which has been followed by the Port Commissioners of Calcutta, namely, to have a certain percentage."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

257B. If Motion No. 257A be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "one lakh of rupees" be substituted for the words "five *per cent.* of such cost," in lines 2 and 3 of proviso (*a*) to clause 49 (*now 50*).

Clause 50 (now 51).

258. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 50 (*now 51*) be placed after clause 41 (*now 42*), and be re-numbered accordingly.

He said:—

"This is a matter of arrangement only, and I leave it to the Department."

The Hon'ble MR. WHEELER said:—

"We do not think it is any improvement."

The motion was then, by leave of the President, withdrawn.

Clause 50A (now 52).

259. The Hon'ble Babu Bhupendra Nath Basu moved that the bracket and word "(herein)" be substituted for the word "therein," in clause 50A [*now 52 (1)*].

He said:—

"Sir, I believe it is something very unimportant. It is a clerical error."

[*Mr. Wheeler ; Babu Deba Prasad Sarbadhikari ; Babu Bhupendra Nath Basu ; Mr. Apcar.*]

The Hon'ble MR. WHEELER said :—

"This is a clerical error and the amendment may be accepted."

The motion was then put and agreed to.

260. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "buildings" be substituted for the words "dwellings and shops," in line 3 of sub-clause (*1*), and for the words "dwellings or shops," in lines 1 and 2 of sub-clause (*4*) [*now 3*] of clause 50A (*now 52*).

He said :—

"I believe, Sir, that this amendment will be accepted, because the words 'dwellings and shops' do not find place in any of the previous clauses. What is intended here is to have buildings which may be used for dwellings. The idea of the construction of shops being undertaken is somewhat hostile to the existing notion of things. If we confine ourselves to buildings that will be amply sufficient to meet requirements. If shops have to be located, that may be done in the buildings. I believe there is no objection to accept this amendment."

The Hon'ble MR. WHEELER said :—

"I would certainly adhere to the wording of the bill which expresses clearly what is meant. Under the Bill, a housing scheme may provide for 'dwellings and shops,' but if we substitute the word 'buildings,' a vague expression is used in place of one which is definite, and it might be argued that we exclude shops, which is certainly not desirable. It is not probable that many shops will be built, as private enterprise should be equal to the demand, but if you want to induce people to live in a certain locality, they must have facilities for purchasing their requirements, and if shops cannot be otherwise constructed, the Trust might have to undertake to erect them. In any case they should retain the power to do so. The English Act speaks of 'providing for the accommodation of persons.' The Bombay Act [section 25 (*3*)] speaks of 'buildings for the accommodation of' persons, and has a separate sentence to say that accommodation includes shops. The Bill seems to be clearer than either of these Acts, and it expresses what is the intention of its framers."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I do not wish to press it, Sir."

The motion was then, by leave of the President, withdrawn.

262. The Hon'ble Babu Bhupendra Nath Basu moved that the words "of the poorer and working classes" be inserted after the word "persons," in line 4 of section 50A [*now 52 (1)*].

The Hon'ble MR. WHEELER said :—

"That would be in accordance with what the Council has already decided."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn :—

261. The Hon'ble Mr. Apcar to move that the words "of the poorer classes" be inserted after the word "persons," in line 4 of clause 50A [*now 52 (1)*].

[*Mr. Apcar; Mr. Wheeler; Babu Bhupendra Nath Basu; Rai Baikuntha Nath Sen Bahadur.*]

263. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "of the poorer and working classes" be inserted after the word "persons," in line 4 of clause 50A [*now 52 (1)*].

264. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "of the working and poorer classes" be inserted after the word "persons," in line 4 of clause 50A [*now 52 (1)*].

265. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "having an income of less than one thousand five hundred rupees a year" be inserted after the word "persons," in line 4 of clause 50A [*now 52 (1)*].

265A. If Motion No. 261 be not carried, the Hon'ble Mr. Apcar to move that the word "actually" be inserted after the word "are," in line 1 of clause 50A [*now 52 (1) (a)*].

265B. If Motion No. 261 be not carried, the Hon'ble Mr. Apcar to move that the word "actually" be inserted after the word "be," in line 1 of clause 50A [*now 52 (1) (b)*].

266. The Hon'ble Mr. Apcar moved that clause 50A [*now 52 (2)*] be omitted.

The Hon'ble MR. WHEELER said:—

"I would propose that this should be accepted. It is really consequential to the other."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

267. If Motion No. 262 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that clause 50A [*now 52 (2)*] be omitted.

268. If Motion No. 262 be carried, the Hon'ble Rai Sheo Shankar Sahay Bahadur to move that clause 50A [*now 52 (2)*] be omitted.

269. If Motion No. 264 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that clause 50A [*now 52 (2)*] be omitted.

270. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the words "regard solely" be substituted for the words "special regard," in clause 50A [*now 52 (2)*].

271. The Hon'ble Babu Bhupendra Nath Basu moved that before clause 50A (*3*), [*now 52 (2)*] the following be inserted, namely:—

(*2a*) Every re-housing scheme shall provide for the acquisition by the Board of land required for the purpose of carrying out the scheme.

He said:—

"Sir, I do not find any such power reserved under the clause that we have already got. Does not the Hon'ble Member in charge think that some such power should be reserved?"

The Hon'ble MR. WHEELER said:—

"That is covered by clause 61A (*now 69*), which gives a general power to acquire land for carrying out any of the purposes of this Act. That will meet the Hon'ble Member's point."

[*Babu Bhupendra Nath Basu ; Mr. Wheeler.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I do not wish to press it."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

272. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "after due advertisement in local newspapers" be substituted for the words "after due inquiry," in lines 2 and 3 of clause 50A (*4*) [*now 52 (3)*].

273. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "or" be substituted for the word "and," where it first occurs in line 4 of clause 50A (*4*) [*now 52 (3)*].

Clause 40 (now 41).

The following motions were then taken up for consideration:—

229. If Motion No. 227 be not carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "for persons of the poorer and working classes" be inserted after the word "buildings," in line 4 of clause 40 (*c*) (*now 41*).

229A. If Motion No. 228 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "for persons of the poorer and working classes" be inserted after the word "buildings," in line 4 of clause 40 (*c*) (*now 41*).

230. The Hon'ble Mr. Apcar to move that the words "for persons of the poorer classes" be inserted after the word "buildings," in line 4 of clause 40 (*c*) (*now 41*).

230A. If Motion No. 230 be not carried, the Hon'ble Mr. Apcar to move that the words "for persons actually displaced by any improvement scheme" be inserted after the word "buildings," in line 4 of clause 40 (*c*) (*now 41*).

231. The Hon'ble Babu Deba Prasad Sarbadhikari to move that after clause 40 (*c*) (*now 41*), the following be inserted, namely:—

(*c*) the re-housing of persons whose property has been or may be acquired and who require rehousing accommodation and whose yearly income does not exceed one thousand five hundred rupees.

The Hon'ble MR. WHEELER said:—

"Amendments 229 to 231 are all designed, in one way or another, to provide that the buildings referred to in clause 40 (*c*) (*now 41*) should be only for the use of persons of the poorer and working classes. I have already explained that the word 'buildings' is not mentioned there in connection with re-housing schemes, and it is not contemplated that re-housing schemes should be undertaken in accordance with it. But in so far as there is a certain amount of fear on the part of some Members that if the words are left as they are, they will be open to misuse, I would move with your permission, Sir—

(1) that the words 'and the construction of such buildings' in sub-clause (*c*) of clause 40 (*now 41*), be omitted, and

(2) that after sub-clause (*c*) of clause 40 (*now 41*), the following be inserted, namely—

(*cc*) 'the construction of any buildings which the Board may consider necessary to erect for any purpose other than sale or hire.'

"I think this will probably meet the wishes of the Hon'ble Members."

These amendments were put and agreed to, and motions Nos. 229, 229A, 230, 230A and 231 were then, by leave of the President, withdrawn.

[Babu Deba Prasad Sarbadhikari; Mr. Slacke; Babu Bhupendra Nath Basu; Mr. Bompas.]

Clause 51, proviso (i) (now 53).

274. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "or unnecessary" be inserted after the word "impracticable," in line 3 of proviso (*i*) to clause 51 (*now 53*).

He said:—

"Sir, I do not know whether the Hon'ble Member in charge will accept the amendment; I am almost hoping that he will welcome it. This is really an attempt to increase the powers of the Board. They are not only to increase the width of the road to the minimum if they find it impracticable, but I seek to add words which will enable them to increase if they find it necessary to do so, though it may not be impracticable. However, if this does not appeal to the Hon'ble Member in charge, I consider it no concern of mine."

The Hon'ble Mr. Slacke said:—

"Sir, we are advised that the proposal will not be any improvement on the proviso as drafted, and I cannot therefore accept the amendment."

The motion was then, by leave of the President, withdrawn.

Clause 51, proviso (ii) (now 53).

275. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "between six and" be substituted for the words "less than," in line 3 of proviso (*ii*) to clause 51 (*now 53*).

He said:—

"Sir, the case has been considered by the Hon'ble the Vice-President and a minimum has been deliberately fixed upon, and yet we are giving by this sub-section the Board power to have passages for sanitary purposes of any width less than 20 feet. All of us know that in the northern quarter, for sanitary purposes, passages of 2 to 3 feet are common, which are a serious threat to the sanitation of the neighbourhood concerned. By the words I seek to introduce, I desire that even with regard to these narrow passages for bare sanitary purposes, the width should not be less than 6 feet. If we are to have passages less than 6 feet, they will be a serious threat to the sanitation of the people of the neighbourhood. No passage ought to be less than 6 feet, and we ought to set our face against these nuisances which are a standing threat to the Calcutta sanitation. The minimum ought to be inexorably fixed with regard to this."

The Hon'ble Mr. Slacke said:—

"The clause as provided will give the Board power to lay out service passages of any width up to 20 feet. The Hon'ble Member proposes that no such passage shall be less than 6 feet in width. Another Hon'ble Member would fix the minimum width at 10 feet. With this divergence of opinion, I think it would be better to leave the width discretionary with the Board as provided in the clause."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir, in this connection, as a Member of the Select Committee I am of opinion that the minimum should not be fixed, but then it was felt that 10 feet would be narrow and so discretion should be left to the Board that in case of passages for sanitary purposes, the Board might allow less than 20 feet, but the minimum they wanted to fix was 10 feet; and we, after some persuasion, were able to convince them that that minimum should not be laid down."

The Hon'ble Mr. Bompas said:—

"I think that the safest course is to follow the Bombay Act. The object of the proviso is to take service passages out of the 20-foot rule. The

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Rai Sita Nat Ray Bahadur; Mr Wheeler.*

Trust from its very constitution will pay due regard to sanitary considerations and I would leave these matters to its discretion."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"In that view of things I will not put my motion, with Your Honour' permission."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

276. The Hon'ble Babu Bhupendra Nath Basu to move that the wor "ten" be substituted for the word "twenty," in line 3 o proviso (*ii*) to clause 51 (*now 53*).

277. The Hon'ble Rai Sita Nath Ray Bahadur to move that th word "ten" be substituted for the word "twenty," i line 3 of proviso (*ii*) to clause 51 (*now 53*).

Clause 53 (now 54).

278. The Hon'ble Rai Shoo Shankar Sahay Bahadur to move tha the word "Act" be substituted for the word "section," in line 3 of clause 53 (*now 54*) (*b*).

279. The Hon'ble Babu Deba Prasad Sarbadhikari to move that th words "unoccupied land or a square" be substituted for th words "or square," in the fourth line from the end of clause 53 (*1*) (*now 54*).

Clause 54 (now 55).

279A. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "the usual declaration shall be issued under the Land Acquisition Act, 1894," be substituted for the words "the Board shall cause to be affixed in a conspicuous place in or near such street, square or part, a notice signed by the President, and," in lines 5 to 7 of clause 54 (*now 55*) (*1*).

He said:—

"I do not know why the usual Land Acquisition procedure should not be adopted in the case of any street or square which is private property and which is not vested in the Corporation or in any outside municipality.

"Suppose the Board want to take possession of a *bustee* road in my *bustee* (the road being my private property) and to utilize it for a certain purpose, would it be just and fair to deprive me of my property or my rights in my property without paying me the full market value of the land comprised in the road? What I beg to suggest is that whenever the Board has occasion to take possession of any private street or square, the usual declaration under the Land Acquisition Act should issue for the acquisition of the property."

The Hon'ble MR. WHEELER said:—

"The effect of this proposal, Sir, would be that whenever a private street or square is taken up, the land must be acquired. At present, under clause 54 (*now 55*) of the Bill, when such land is taken, notice is given and compensation is paid. Under clause 54 (*3*), (*now 55*) the Board is required to pay reasonable compensation for the loss of the rights of the previous owner, and there is a subsequent clause which provides for the settlement of any disputes in that respect. In dealing with a matter like this, this would appear to be the preferable procedure. The private street or square is held subject to the rights of others over it. There is no owner in the sense that private land may be owned, and the person who claims to be the owner is only entitled, as in the words of the Bill, to reasonable compensation for the loss of his rights. The matter is not one which should, therefore, be properly dealt with under the Land Acquisition Act."

[*Rai Sita Nath Roy Bahadur; Mr. Bompas.*]

The Hon'ble Rai Sita Nath Ray Bahadur said:—

"I do not see any reason why the ordinary procedure should not be followed in ordinary cases of land acquisition, and the cases should not be tried by a Land Acquisition Judge, and why should cases relating to private streets and squares matter be decided by the Special Tribunal? In case of private *bustees*, the owner must naturally claim compensation. But would it be proper, as laid down in clause 54 (*now 55*), to simply issue a notice and then acquire the land? If you want to acquire it, you should acquire it under the Land Acquisition Act."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

280. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and is to be acquired" be inserted after the words "is required," at the end of clause 54 (*now 55*) (*1*) (*a*).

281. The Hon'ble Rai Sita Nath Ray Bahadur moved that after clause 54 [*now 55* (*1*)], the following be inserted, namely:—

(*1a*) The Board shall send a similar notice to the owner of the street, square or part which it is proposed to acquire and also to owners of property adjacent thereto or to residents in the neighbourhood.

The Hon'ble Mr. Bompas said:—

"I will accept this amendment if the Hon'ble Member is content that the amendment should run up to the words 'square or part.' It is the only thing that can be accepted after Motion No. 279A has been lost."

The motion was then altered to run "that at the end of clause 54 (*now 55*) (*1*) the following words be added, namely,—

'and shall simultaneously send a copy of such notice to the owner of such street, square or part'."

The motion was put in the altered form and agreed to.

The following motions were, by leave of the President, withdrawn:—

282. The Hon'ble Rai Sita Nath Ray Bahadur to move that the word "hearing" be substituted for the word "considering," in clause 54 (*now 55*) (*2*).

283. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "been acquired" be substituted for the words "vested in them under sub section (*2*)," in clause 54 (*now 55*) (*3*).

284. The Hon'ble Rai Sita Nath Ray Bahadur moved that the word "property" be substituted for the words "rights therein," in line 4 of clause 54 (*now 55*) (*3*).

He said:—

"It seems that the owner of the property has no proprietary right in his square. He has only the right of use as others have. My contention is that the owner has a proprietary right. Therefore, the word 'property' should be substituted."

The Hon'ble Mr. Bompas said:—

"No doubt the word 'property' would have been more appropriate if the clause had dealt with the acquisition of land. But we are dealing with a case where there is no question of buying out an owner. The Trust may have to divert a private road just as it diverts a public road. If the new road is

[*Babu Deba Prasad Sarbadhikari; Mr. Bompas; the President.*]

as convenient as the old one, no one is damaged, and there is no reason why compensation should be paid for the loss of their rights in the old road. Compensation has taken the form of providing an alternative road. So also the owner will be compensated if he has suffered any loss by the alteration or closing of the road. The case of these private roads is to be on exactly the same footing as the case of public roads, and under these peculiar circumstances the word 'rights' is more appropriate than the word 'property.'"

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

284A. If motions Nos. 283 and 284 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "which has vested in them under sub-section (*2*), they shall pay reasonable compensation to the previous owner for the loss of his rights therein," in lines 2 to 4 of clause 54 (*3*) (*now 55*), the following be substituted, namely:—

which has been acquired by them under sub-section (*2*), they shall pay reasonable compensation, as well as the statutory allowance of 15 per cent. to the previous owner for the loss of his property.

285. The Hon'ble Rai Sita Nath Ray Bahadur to move that in line 3 of clause 54 (*now 55*) (*4*) (*ii*),—

(*1*) for the word "such," the words "any loss" be substituted, and

(*2*) the word "sustained" be inserted after the word "inconvenience."

Clause 56E (now 60).

286. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "so." in line 3 of clause 56 E(*2*) (*now 60*), be omitted.

287. The Hon'ble Babu Deba Prasad Sarbadhikari moved that at the end of clause 56E (*now 60*), the following be added, namely:—

"after notifying in local newspapers their intention to do so."

The motion was put and agreed to.

Clause 56G (now 62).

The Hon'ble MR. BOMPAS said:—

"Sir, may I suggest that item 289A be moved first? That would render the previous amendments unnecessary."

The PRESIDENT said:—

"If the Council and the Hon'ble Rai Sita Nath Ray Bahadur agree, the Hon'ble Mr. Bompas may first move amendment No. 289A."

This was agreed to.

289A. The Hon'ble Mr. Bompas moved that the following amendments be made in clause 56G (*now 62*) (*4*), namely:—

(*1*) after the word "payable", in line 1, insert the words "to any person;"

(*2*) for the words "the same premises or any adjacent premises belonging to the same owner," in lines 3 to 5, substitute the word "him."

He said:—

"If the amendment which I have just moved be accepted, the amendment proposed by the Hon'ble Rai Sita Nath Ray Bahadur will not arise. The Hon'ble Member will say that by clause 56G (*now 62*) the Trust will have power of

discontinuing or closing any public street. That is a power which is obviously desirable and which in other circumstances would have been exercised by the Corporation. But it is possible that when you close or discontinue a road or a square, you may do some damage to people who are entitled to use it, and sub-clauses (*2*) and (*3*) provide that compensation shall be paid to any person who has suffered such damage. Sub-clause (*4*) however refers to damages to premises and not to individuals, and my amendment is necessary in order to make sub-clause (*4*) consistent with the two foregoing sub-clauses. To pay compensation to the injured person to the extent of his injury is fair and simple, but it is difficult or impossible to say that one side of a house has been benefited and one side of a house has been injured by the closing or diversion of a road, or that the injury outweighs the benefit, or *vice versâ*. And it seems no more reasonable to refer to an adjoining premises belonging to one owner than to different parts of the same premises. I submit that the whole matter is simplified by making sub-clause (*4*) consistent with the previous sub-clauses."

The motion was put and agreed to.

Clause 56G (now 62) (5).

289B. The Hon'ble MR. BOMPAS, with the permission of the President, moved:—

(*1*) that the words "or square" be inserted after the words "public street," in line 1 of clause 56G (*now 62*) (*5*), and

(*2*) that the words "so much of the same," be substituted for the words "the site of so much of the roadway and footpath," in lines 4 and 5 of clause 56G (*5*) (*now 62*)."

The motion was put and agreed to.

Clause 56G (now 62).

The following motion was, by leave of the President, withdrawn:—

288. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "or any adjacent premises belonging to the same owner," in lines 4 and 5 of clause 56 G (*now 62*) (*4*), be omitted.

289. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "or any adjacent premises belonging to the same owner," in lines 4 and 5 of clause 56G (*now 62*) (*4*), be omitted.

He said:—

"Sir, I am afraid I am not quite able to follow the effect of my friend's amendment, but as it is believed that it will meet requirements of the case, I do not wish to press my amendment. I take it that it will be a general striking of balance which will be taken into account and adjusted."

The motion was then, by leave of the President, withdrawn.

Clause 56H (now 63) (1).

290. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "regard to" be inserted before the words "any area," in line 1 of clause 56H (*now 63*) (*1*).

He said:—

"I take it, Sir, that it is an obvious correction which the Department will probably accept."

[*Mr. Wheeler ; Babu Bhupendra Nath Basu; Rai Sita Nath Ray Bahadur.*]

The Hon'ble MR. WHEELER said :—

"The amendment is an improvement and may be accepted."

The motion was put and agreed to.

The following motion was, by leave of the President, withdrawn :—

291. If Motion No. 12 or Motion No. 13 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "within the distance mentioned in section 1, sub-section (*3*)" be inserted after the word "Municipality," in line 2 of clause 56H (*now 63*) (*1*).

Clause 56 H (2) (now 63).

292. The Hon'ble Babu Bhupendra Nath Basu moved that at the end of clause 56H (*now 63*) (*1*), the following be added, namely :—

"and shall publish the same in the manner prescribed by section 350 of the Calcutta Municipal Act, 1899, the expense of such publication being borne by the Board."

He said :—

"I think that this amendment will be accepted subject to the modifications proposed by Mr. Wigley."

The Hon'ble MR. WHEELER said :—

"Under the Bill as it stands, Sir, you will observe that notice of these street alignment schemes is given by sending them to the local authority, which is supposed to take due action to make them known and to collect expressions of public opinion. The amendment of the Hon'ble Babu Bhupendra Nath Basu is to require the Board to publish a notice in the same manner as is prescribed by the Calcutta Municipal Act. I am prepared to accept the amendment in a slightly different form, though to the same effect, and would propose that clause 56H (*now 63*) (*2*) should run as follows:—

(*2*) 'Before finally adopting any scheme or plan prepared under sub-section (*1*), the Board shall give public notice of their intention so to do, and shall send the scheme or plan to the local authority by which the said area is administered, and shall consider all objections received from any person affected by the scheme or plan, and any representation made to them by the said local authority, before a date to be appointed by the Board in this behalf' ".

The motion was put in the altered form and agreed to.

The following motion was, by leave of the President, withdrawn :—

293. The Hon'ble Babu Deba Prasad Sarbadhikari to move that after the word "authority" in line 5 of section 56H (*2*), the following be inserted, namely :—

or by any person affected by such scheme or plan.

Clause 56H (now 63) (5).

294. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "and if they do not proceed to acquire such land within two years from the date of such refusal," in lines 3 and 4 of clause 56H (*now 63*) (*5*), be omitted.

He said :—

"I do not know why an owner will have to wait for two years before he is paid reasonable compensation, whereas in the case of setting back a

building, a wall, under clause 56H (*now 63*) (7), the owner is to be paid full compensation forthwith. Now, with reference to sub-sections (5) and (7), I beg to point out that in both cases the compensation to be paid by the Board for their refusal in one case, to grant permission to any person to erect on his land any building or wall, and in the other case by their compelling the owner to set back his building or wall, is not for any damage that may be sustained in consequence thereof, but for the loss of his land, for in both cases the effect of the orders of the Board is that the owner is thenceforth prevented from utilising or making any use of his land which has fallen within the street alignment or building line. It is, therefore, reasonable that the Board should pay the market value of so much of the land as its owner is prevented from using."

The Hon'ble Mr. Wheeler said:—

"This clause deals with the alignment of streets which are laid out with the idea of preventing the congestion of areas to which the operations of the Board have not, at the moment, extended. The amendment that has just been moved would require the Board to pay compensation in all cases in which they refuse to grant permission to any person to erect on his land any building or wall. I submit, Sir, that it is inadmissible. Under section 350 of the Calcutta Municipal Act upon which this is modelled, the General Committee has power to align streets, and while compensation is payable for the actual setting back of a wall or building, the mere fact that the line is enforced carries no right to compensation at all. It is quite arguable that it should not do so. The clause is purely designed to provide for the future. It is absolutely impossible for the Board to deal with everything at once, and at the same time, as we know, the evils of wrong building and overcrowding may spring up at any time. The clause, therefore, takes power to look ahead and to say that under certain conditions the holders of property should not be permitted so to misuse it as to cause damage to the community. Unless it be argued that they are entitled absolutely to make what use of their property they like, irrespective of the public interests, there is no basis here for compensation. The landlord gets notice and is put to no direct legitimate loss. The case is different when we are dealing with an existing evil arising from over-building; that has been allowed, rightly or wrongly, and for its removal the Board pays compensation. But in the present case the holder of the land has incurred no expenditure. He is merely prevented from putting his property to an improper use. The Select Committee, however, did admit a concession. They agreed that if the Board did not take action to acquire the land within two years, they should pay compensation. It might be argued that this was going further than was necessary, but the idea was that the Board should not be encouraged to make alignments broadcast in areas in which there was no immediate prospect of their carrying a scheme into execution. To that extent we can agree, but beyond that it is not legitimate to go."

The motion was then put and lost.

295. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "six months" be substituted for the words "two years," in line 4 of clause 56H (*now 63* (5)).

He said:—

"Sir, in this amendment I do not go quite as far as the Hon'ble Rai Sita Nath Ray Bahadur proposes to go, but I certainly think that two years is a considerably long period to keep an owner out of what I may legitimately call his dues. The Hon'ble Mr. Wheeler, in resisting the previous amendment, said an owner will lose nothing, but is only prevented from applying to this Board as to land about which he has received notice. Is not that a loss? Two years' loss of income not only with regard to the increased valuation of the land, but also with regard to the growing demands in the

neighbourhood would be enough reason for allowing him compensation after a reasonable wait. Therefore, I propose that a period of six months should be provided as the period of waiting. Of course, it cannot be expected that the moment the Board has declared its intention of taking up that land, it shall straightaway proceed to take the necessary steps. That would be as unreasonable as the two-years' limit. The Municipal Act has a provision which is less than two years. I forget what the exact period is, but I believe it is one year after the origiual alignment has been declared For these reasons, I think that the period of two years ought to be reduced and compensation ought to be payable, if within six months the necessary steps are not taken by the Board."

The Hon'ble MR. WHEELER said:—

"I am not altogether prepared to admit that the limit of two years laid down in the Act is excessive, and, on the other hand, I think that six months is certainly too short. The Board cannot take up everything at once, and they must be given a reasonable time to deal with these matters. But, after reconsideration, we are prepared to reduce the period from two to one year, on the analogy of the Calcutta Act, and that I think will be a fair compromise."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, we are training ourselves to be thankful for small mercies, and accept what we can get"

The motion was then put in the altered form and agreed to.

The following motions were, by leave of the President, withdrawn:—

295A. If Motion No. 294 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "six months" be substituted for the words "two years," in line 4 of clause 56H (5 (*now 63*).

259B. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "the loss of his land" be substituted for the words "any damage sustained by him in consequence of such refusal," in lines 5 and 6 of clause 56 H (5) (*now 63*).

The Council was then adjourned to Saturday, the 19th August, 1911, at 11 A.M.

F. G. WIGLEY,

Secretary to the Bengal Legislative Council.

CALCUTTA,

The 7th September, 1911.

B. S. Press—1-12-1911—2412J—600—G. A. & A. H. E. L.

Abstract of the Proceedings of the Bengal Legislative Council, assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Saturday, the 19th August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. F. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KUCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS

The Hon'ble MR. F. L. HALLIDAY, M.V.O., C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MR. H. J. HILARY.

The Hon'ble KUMAR SIB O NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

[*Mr. Bompas.*]

The Hon'ble LT.-COL. G. GRANT-GORDON, C.I.E.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

THE CALCUTTA IMPROVEMENT BILL, 1911.

Clause 56H (now 63) (7).

The following motion was, by leave of the President, withdrawn :—

296. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "for the loss of his land" be substituted for the words "of the building or wall for any damage that he may sustain thereby", at the end of clause 56H (*now 63*) (7).

Clauses 56H (now 63), new sub-clause (8) and 56J (now 64).

The Hon'ble MR. BOMPAS said:—

"Sir,—As regards amendment 297 and the amendments to clause 56J (*now 64*), I have the honour to suggest that they should stand over until we take up amendment 310 on clause 61B (*now 70*). Clause 61B (*now 70*) will raise the whole question as to whether there will be a Tribunal or not, and clause 56J (*now 64*), which deals with certain functions of the Tribunal, need not be considered until it has been decided whether there is to be a Tribunal at all."

[*The President.*]

The PRESIDENT said :—

"I agree that amendments 297 to 305 be taken up when amendment 310 is discussed."

The discussion of the following motions was therefore postponed :—

Clause 56H (now 63), new sub-clause (8).

297. The Hon'ble Babu Bhupendra Nath Basu to move that, after clause 56H *(now 63)* (7) the following be added, namely :—

(8) In case of any dispute as to the amount of compensation payable under this section, the same shall be determined by the Court of Small Causes of Calcutta

Clause 56J (now 64).

298. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 56J *(now 64)* be omitted.

Clause 56J (now 64) (1).

299. The Hon'ble Babu Bhupendra Nath Basu to move that the words "either by the person claiming compensation or by the Board" be inserted before the words "within a period of three months", in line 2 of the paragraph following immediately after sub-clause (c) in clause 56J *(now 64)* (1).

300. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "by either party" be inserted before the words "within a period of three months", in line 2 of the paragraph following immediately after sub-clause (c) in clause 56J *(now 64)* (1).

301. The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN to move—

(1) that the words "the matter shall be referred by the Board to the Tribunal within three months from" be substituted for the words "the matter shall be determined by the Tribunal, if referred to it within a period of three months from", in the paragraph following immediately after sub-clause (c) in clause 56J *(now 64)* (1), and

(2) that for the words "and the determination of the Tribunal shall be final", at the end of clause 56J *(now 64)* (1), the following be substituted, namely :—

and the matter shall be determined by the Tribunal, and such determination shall be open to appeal to the High Court.

302. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "and the determination of the Tribunal shall be final", at the end of clause 56J *(now 64* (1), be omitted

302A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and the determination of the Tribunal shall be final", at the end of clause 56J *(now 64)* (1), be omitted.

302B. The Hon'ble Babu Hrishikesh Laha to move that the words "and the determination of the Tribunal shall be final", at the end of clause 56J *(now 64)* (1), and the words "and shall be final", at the end of clause 61C (d), be omitted.

302C. If Motion No. 302A be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that after the words "and the determination of the Tribunal shall be final", at the end of clause 56J *(now 64)* (1), the following be inserted, namely :—

in all cases where the difference between the amount claimed and the amount awarded does not exceed one thousand rupees, but in all other cases the determination of the Tribunal shall be open to appeal to the High Court

[*Babu Deba Prasad Sarbadhikari; Mr. Slacke; Babu Bhupendra Nath Basu; Mr. Bompas; Mr. Apcar.*]

Clause 56J (now 64) (3).

303. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "clause (*c*) of" be inserted before the words "sub-section (*1*)", in line 2 of clause 56J *(now 64)*.

305. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 56J *(now 64)* (*3*) and clause 61C *(now 71)* (*c*) be placed after clause 66 *(now 76)*, and be re-numbered accordingly.

Clause 57 (1) [now 65 (1)].

306. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "provided with water" be inserted after the word "lighted", in the penultimate line of clause 57 *(now 65)*.

He said:—

"Sir,—Here we have provision for everything except water. If the Trust is going to do all in the shape of levelling, paving, metalling, flagging, channelling, sewering and lighting, the words 'provided with water' should come in after the word 'lighted' in the same way as in sub-section (*3*) of clause 57 *(now 65)*. I take it, Sir, it is the object of this clause to provide for that, and it may have been a matter of oversight, because sub-section (*c* of clause 57 *(now 65)* does provide for water and other sanitary requisites It is really for the department to consider whether this amendment should be accepted or not."

The Hon'ble MR. SLACKE said:—

"It seems to me quite unnecessary to bring in these words because there are many other matters that should similarly be provided for, as, for example, sewerage. It is not to be supposed that, the Trust having provided water-mains for the streets, the Corporation will refuse to maintain them."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I do not wish to press it."

The motion was then, by leave of the President, withdrawn.

Clause 58 (now 67).

307. The Hon'ble Babu Bhupendra Nath Basu moved that the words "the Corporation" be substituted for the words "the General Committee", in line 4 of clause 58 *(now 67)*.

The Hon'ble MR. BOMPAS said:—

"Under the advice of the Chairman of the Corporation we accept this."

The motion was put and agreed to.

New clauses 58 A and 58 B.

308. The Hon'ble Mr. Apcar moved that, after clause 58 *(now 67)*, the following be inserted, namely:—

'58A. (*1*) If any building which is used, or is intended or is likely to be used, as a dwelling-place, is in the opinion of the Board, owing to sanitary defects, unfit for human habitation, the Board may pass a resolution to that effect and may authorize the President to apply to a salaried Presidency Magistrate or a Magistrate of the first class to prohibit the use of such building as a dwelling place; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order make a prohibition as aforesaid, or may pass such other order as he may deem just and proper

Buildings unfit for human habitation

(*2*) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the President certifies that the causes rendering the building unfit for human habitation have been removed, or a Magistrate, by written order, withdraws the prohibition aforesaid.

[*Mr. Apcar.*]

Buildings unfit for human habitation and likely to endanger the public health.

58 B. (*1*) Whenever the Board consider that any building which is used, or is intended or is likely to be used, as a dwelling-place is, owing to sanitary defects, unfit for human habitation and likely to endanger the public health, they may cause a written notice to be fixed to some conspicuous part of the building, requiring the owner of the land occupied by such building to execute such works or take such measures as the Board may deem necessary to render the same fit for human habitation.

(*2*) If any owner of land neglects for a period of three months to execute any works or take any measures required by any notice affixed under sub-section (*1*) with respect to any building situated on such land, the Board may authorize the President to apply to a salaried Presidency Magistrate or a Magistrate of the first class for the demolition or alteration of such building; and such Magistrate may make an order directing that such building—

(*a*) be demolished by the owner, or altered by him, within a period specified in the order, to the satisfaction of the President, or

(*b*) be demolished or altered by the Board at the expense of the owner.

(*3*) If any demolition or alteration, directed by an order made by a Magistrate under clause (*a*), has not been completed by the said owner, within the period specified in the order, to the satisfaction of the President, the Magistrate may order the building to be demolished by the President forthwith, or may make such other order as he may deem just and proper.

(*4*) A Magistrate shall not make any order under sub-section (*2*) or sub-section (*3*) in respect of any building without giving the owner of the land occupied by the building and the owner and occupier of the building full opportunity of adducing evidence and of being heard in defence.

He said:—

"Your Honour—I already have indicated, in my note of dissent, the reason for the amendment I now move. Under the Bill, if any buildings in an area appear to the Board to be insanitary, they can proceed to declare the whole area to be an unhealthy area, and then proceed to put in force the elaborate machinery which the English Acts have provided only for large areas. We have no provision here for dealing with individual houses, or with small areas, as the local authorities in England have, with its less drastic procedure.

"We deliberately abandoned in Committee the original form of clause 35 which followed the terms of the English Act of 1890, that is to say, if the evils connected with unhealthy buildings and sanitary defects could not be effectually remedied otherwise than by an improvement scheme, the Board were empowered to frame an improvement scheme. But this was amended by the Town Planning Act of 1909, and we made a corresponding change in Committee, in exact accordance with the amendment made in the English Statute, and the form now is, that the Board must consider 'the most satisfactory method of dealing with the evils connected with unhealthy buildings and sanitary defects.' The meaning cannot be open to doubt. It is that the Board must consider, in comparison with other methods, whether the most satisfactory method is an improvement scheme. But the English Statute gives an opportunity of considering other methods: on the other hand, this Bill does not. I went into Committee under the impression, created by the terms of the Bill as it was introduced, that power for the demolition of individual houses would certainly be included in it, but that idea received its *quietus* during our proceedings in Committee.

"If the Bill had been left as it originally stood, the question in issue would simply have been whether or not an improvement scheme should be framed. But when we deliberately invite the Board to consider which will be 'the most satisfactory method', I submit that the intention is clear that they should have the opportunity which we invite them to exercise. I hope I may be pardoned if I say,—not with any idea of attributing any motive, but only to emphasise my contention—will it not be a sham if we purport to impose upon the Board an obligation to consider which method will be the 'most satisfactory' in comparison with other methods, and then we leave them with opportunity to consider only one method, in distinction from the English law,

which presents more methods than one? What was the meaning of the change we made in Committee unless we desired really to afford other methods than an improvement scheme for the Board's consideration?

"We may be perfectly sure that the amendment in the English Statute, which has been so faithfully followed by us, was not made merely for the sake of a change of words, but had a real purpose behind it. And the purpose is apparent even to a humble student of the subject like myself.

"After the Acts of 1875 and 1890 came into force, the local authorities have been – to quote from a publication of the Manchester University—'oftentimes inclined towards housing pyrotechnics in the shape of extensive and costly demolition schemes, the execution of which brings newspaper renown and public commendation.' But while the utility of far-reaching clearance schemes is not denied, and if it be not presumptuous to say it—and I say it only to make my own position in this issue plain—I am in full accord with that view. But it is contended that such schemes should be adopted with discrimination and reluctantly. A clearance scheme has been likened to an operation by a surgeon undertaken as the most direct method of cure, and just as the physician now is asserting his influence, so it is being realised that large clearances, when considered with relation to their real purpose—the effect on overcrowding and allied evils, the transference of population into good sanitary houses with proper conditions of ventilation and other desirable conditions—are little, if at all, more than failures.'

"The knowledge that experience has afforded of the wastefulness of large clearances; that the fewer houses are demolished the less hardship will be incurred; the large disturbances of population and the hardship caused to those whom the law is designed to help; the heavy expense and delay entailed by the preparation of numerous plans and maps and detailed estimates, these and many other questions into which I will not occupy time by entering,—all have forced attention to other more practical and sufficiently useful methods of sanitary reform which have been provided.

"What is the purpose of the amendment made by the Act of 1909, which we have so ostentatiously followed? Evidently to bring to the attention of local authorities that there are methods other than an improvement scheme, and that they must not regard the issue as being merely whether or not an improvement scheme shall be framed, but they must consider the other methods that have been provided: and that, only when they arrive at the opinion that 'the most satisfactory method,' in comparison with other methods, will be an improvement scheme, an improvement scheme should be adopted.

"Insanitary houses and conditions must be wiped out. I urge this as strongly as any enthusiast in the Council. There must be no question on this point. But this view will not conclude the consideration of the means for this purpose. And I agree with the view now prevalent, and I submit to this Council that it is better to place on the right shoulders, that is, the owners, who are responsible for unhealthy conditions, the cost of making their houses fit for habitation. Unless we desire to say that the Board may abdicate their discretion and accept whatever may be proposed: that if an improvement scheme is proposed then an improvement scheme, it goes without saying, is the most satisfactory method.

"I submit that if they find by improving individual houses, without devastating a large area, all that is required for the area will have been done, they should be given the power to act upon that opinion. I have not the remotest idea of precluding improvement schemes, but only to allow an alternative, and I propose to provide a comparatively short, sharp, effective procedure, and if by adopting it the Board will have done all that is necessary, they should not be precluded from utilising it. I have not been able to give effect to my views fully in the proposals I now submit to the Council. It would have required new clauses, involving many details that would have taxed powers greater than a non-official can command, to be introduced at the present stage of our proceedings. But I am submitting clauses, the policy of which is borrowed from the English Statutes, in a form that is taken practically in its entirety from the Municipal Act in force, and for practical purposes these clauses will be sufficiently comprehensive."

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble Mr. Bompas said :—

"Sir,—I am surprised that this amendment should be moved by the representative of the Corporation in this Council, of all people. The amendment is before the Members of Council, and they will see that it embodies in this Bill clauses taken from the Calcutta Municipal Act which give certain drastic powers to the Corporation. The first clause is that the Corporation may go to a Magistrate and get an order that a certain house is unfit for human habitation and is to be closed. The other clause is that under the orders of the Magistrate a notice should be served on the owner to carry out repairs required by the Corporation, or have his house demolished. These are very stringent powers that are left with the Corporation. The Hon'ble Member wishes the Trust to exercise concurrent jurisdiction in this matter with the Corporation. Are the citizens of Calcutta really willing and anxious that two separate authorities should possess these very drastic powers? This power cannot be exercised by the Trust without trespassing upon the domain of the Corporation. It is perfectly true that there are many other ways of dealing with insanitary properties besides the framing of general improvement schemes. These matters can very well be left with the Corporation which is a body much more under popular control than the Trust will be. Public opinion in Calcutta would, in my opinion, prefer that these powers should be exercised by the Corporation, and not by the Trust. I do not believe that the public of Calcutta would at all welcome the duplicating of these very stringent powers."

The Hon'ble Babu Deba Prasad Sarbadhikari said :—

"Sir,—I cannot presume, of course, to speak on behalf of the public of Calcutta, but it does strike me, speaking as an individual member of that public, that it would be always desirable to have some less drastic powers in the hands of the Board that may be exercised with regard to the areas where the more drastic powers and the more expensive schemes would, for obvious reasons, be undesirable or impracticable. It is not any small isolated insanitary areas that the Board will have to deal with, but its work will be vast, and its improvement can never be commensurately rapid, however generous the contribution of the Corporation and the Government may be, after they complete the bigger scheme. Are the smaller insanitary areas, where these less drastic measures would be effectual to deal with, to wait till the Board has all the means and all the time that are necessary for turning their attention to these areas? The Municipal Act provides partially for what the Hon'ble Mr. Apcar's amendment proposes to vest the Board with; but how has that section been hitherto applied? It is not by way of complaint that I am drawing attention to the lack of proper application of that section to the insanitary conditions of Calcutta. There may have been good reasons for the abstention, of which we know nothing. The fact, however, is there. Although this section has been in the Statute Book since 1899, much of the objectionable feature ought to have disappeared from the insanitary areas of Calcutta which under other circumstances would probably have been necessary to deal with if these clauses had been given proper effect to. It is not a question of really exercising concurrent jurisdiction. When the Improvement Trust takes up important matters like these, the machinery at its disposal will necessarily be more perfect, more practical, more businesslike than that of the Corporation, which, knowing that another and fresher and stronger body is engaging itself in looking after the sanitary improvement of Calcutta from the larger point of view, will necessarily think that these powers are delegated to them in one shape or other. There may be objection to people living in the fools' paradise in the hope that because an Improvement Trust is in existence, insanitary areas will not be dealt with by the Corporation any longer. But this increase of the powers of the Board will not necessarily lead to these results. I appeal again to the Chairman of the Calcutta Corporation and to the late Deputy Chairman to say if it is not the fact that whenever any big Improvement Scheme—I am not speaking of the absolutely small ones—came before the Corporation within the last three or four or five years, the invariable answer had been that they must stand over in view of the Improvement Trust. I would once more refer to the abandoned Nebutollah-Wooriapara scheme, which

would have long ago blotted out a plague spot that is a disgrace and menace to the town, specially towards the south. 'We do not know,' the Corporation must have felt, 'what they (The Calcutta Improvement Trust) are going to do. It is best to stay action and let the thing be in abeyance.' We have repeatedly been told that secrecy will be the watch-word of the Improvement Trust, and even the Corporation is not likely to know where the attentions of the Trust are going to be devoted. Everything will be cut and dried with regard to a particular scheme when it is fit to go before the Local Government, and it will be too late for the public for consideration of the details. In that state of things it would be very difficult and undesirable for the Corporation to apply these drastic powers at their disposal under the Municipal Act, not knowing when next the Trust was going to take up some quarter and in a more drastic way. Suppose the Corporation were to apply the provisions of section 444 of the Calcutta Municipal Act, which calls upon the owners of houses to make the improvements at considerable expense and inconvenience and to a particular locality. What would happen if the next day, in spite of that improvement and in spite of the action under section 414 of the Calcutta Municipal Act, the Trust is not satisfied with what ought to have been and could have been done under that section and proceeds to deal with the property. The owner would be lawfully exposed to this double risk and expenditure, but how terribly hard and unjust it would be? Even if all that has been done does not appeal to the Trust, they will be competent to take up the question from the larger point of view and organise an Improvement Scheme of their own. Whether that would be the right way of doing things, instead of accepting the Hon'ble Mr. Apcar's suggestion, should have appealed to those who are wanting larger powers for the Board. The amendment provides that while you are dealing with bigger and more expensive schemes, your power ought not to be limited and you ought to have power regarding the smaller matters, for you will be able, having seizin of the whole of Calcutta, to know exactly where the plague-spots are. It does not require you to embark upon more expensive schemes, and you may be satisfied with undertaking smaller works such as this amendment seeks to place at your disposal for the necessary powers That would certainly be a more convenient and, from the point of view of the public, a more acceptable course of things. I take it, Sir, that after attention has been called to section 444 in the way that has been done in this Council and elsewhere, that the Corporation may be willing to take more action under it than it has done in the past. If it is so, and if at the same time there is a possibility of the Improvement Scheme being taken in hand in the not very distant future, the prospects of the citizens of Calcutta, on whose behalf the Hon'ble Mr. Bompas has made such a stirring appeal, will be anything but enviable. In these circumstances, it appears to me that although it might have the look of concurrent jurisdiction, there would be no objection to it. If there be an objection, it can of course be done away with without really taking away the powers from the municipality under the Municipal Act, under a short repealing Act, if this course should be thought desirable. The whole power of sanitary improvement should concentrate into one hand, and that is the hand of the Trust. This seems to be the most acceptable and practical solution of the whole difficulty, not only with regard to the larger schemes that have beset us in the past with regard to the sanitary improvement of Calcutta, but also the smaller. Therefore this amendment ought not to be resisted, but it should find acceptance, with regard to which hope however I find very little promise from the Hon'ble Mr. Bompas's speech."

The Hon'ble MR. APCAR said:—

"Sir,—We have been given an instance—if I may say so without offence—of an answer being given merely for the sake of saying something, without having anything to say, because there has not been any attempt to meet the points that I have raised. The Hon'ble Member himself introduced his amendment of the original form of the Bill in Select Committee, and what is the meaning of the amendment now that he himself has made it? What is the meaning of an improvement scheme being 'the most satisfactory method of dealing with an insanitary area?' The Hon'ble Member in charge

has omitted to notice the real point in issue in my amendment: to afford an alternative to the Board, if that body find that by attention to individual houses the sanitary requirements of an area will be met. Action by the Corporation would not solve a question so entirely in the discretion of the Board. It seems to me that there is a desire that there should be no limitation of power and that no risk or excuse should stand in the way of these large clearances. The Hon'ble Member must pardon me if I say that I do not follow him at all into what the public may desire or may not desire. I have not found that sensitiveness to public opinion has been displayed on this occasion It is nevertheless consistent with what has been done throughout. When a precedent is relied upon, that precedent is quoted as one that should be observed, but there is no desire to be consistent where it is found inconvenient to the Hon'ble Member's own contentions. Then all precedent is thrown aside altogether. The Hon'ble Member says that it is open to the Trust to say that the scheme is expensive and to leave it to the Corporation. But when the Corporation are to contribute so largely, as from the first, 7 lakhs of rupees to the Board, are the Board going to turn round to the Corporation to say that a scheme is too expensive and we shall leave it to the Corporation to execute it? Is that really seriously intended as an answer to me?"

The Hon'ble MR. BOMPAS said:—

"The Corporation would not execute schemes, but in any area it may happen that a cheaper remedy than an improvement scheme would meet the circumstances of the case; and the Corporation will be left, as at present, to apply such remedies."

The Hon'ble MR. APCAR said:—

"Sir,—I misunderstood the Hon'ble Member. My purpose is quite evident. It is that, if it will be sufficient for all sanitary requirements to demolish individual houses, it should be done. I do not intend in any degree to hamper the Board. If it is necessary to execute an improvement scheme, by all means undertake it; but it may happen over and over again, when the matter is looked into more closely, that it will be found that the object aimed at will have been accomplished by the demolition of a few houses in an unhealthy area. All that is really needed may be done, although we now have heard that, after all, this Act is intended to be put in force for few houses, and that it must not be supposed that it will be used for large clearance schemes; nevertheless, this perfectly reasonable proposal—that would obviate large clearances which, we now hear, are not intended, and yet serve to obtain sanitary conditions that are desired—is to be rejected. I must ask Your Honour to put the amendment to the vote."

A division was then taken, with the following result:—

Ayes 10.	*Noes 31.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. R. T. Greer, C.S.I.
	The Hon'ble Mr. D. J. Macpherson, C.I.E.
	The Hon'ble Mr. E. W. Collin.
	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.
	The Hon'ble Mr. E. P. Chapman.
	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. H. Wheeler, C.I.E.
	The Hon'ble Mr. B. K. Finnimore.
	The Hon'ble Mr. S. L. Maddox.
	The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Rai Sheo Shankar Sahay Bahadur

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Mr. G. W. Küchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur

The Hon'ble Mr C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. G. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Babu Bal Krishna Sahay.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Dr. Abdullah-al Mamun Suhrawardy.

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Babu Braj Kishor Prasad.

The following Members abstained from voting :—

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The result of the division was, ayes 10, noes 31, and the motion was therefore lost.

New Clause 58C.

The following motion was, by leave of the President, withdrawn :—

309. If motion No. 308 be carried the Hon'ble Mr. Apcar to move that after the new clause 58B the following be inserted, namely :—

58C. (*1*) Where any building is to be demolished in pursuance of an order made by a Magistrate under section 58A or section 58B, the Board shall first pay compensation to the owner thereof.

Compensation.

(*2*) If any question or dispute arises as to the sufficiency of the compensation paid or proposed to be paid under sub-section (*1*), it shall be determined by the Tribunal, if referred to it within a period of two months from the date of the order for demolition.

[*Rai Sita Nath Ray Bahadur; Babu Bhupendra Nath Basu.*]

Clause 61B (now 70).

311. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause 61B (*now 70*) be omitted.

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, this amendment of mine is the same as of other Hon'ble Members following me, and, if Your Honour permits, I would ask that it might be moved first by my friend and then by myself. I am looking up certain papers."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I have no objection, Sir, if the Hon'ble Babu Bhupendra Nath Basu moves his amendment after mine His amendment is similar to mine."

"I cannot realize why the ordinary provisions of the Land Acquisition Act, which is in force throughout the whole of British India, should be discarded, cast aside, thrown overboard, and in their place unusual and extraordinary provisions formulated and new procedure adopted for acquisition of land in executing the Improvement Scheme.

"In case of urgency, the Collector has ample power under the Land Acquisition Act to take immediate possession of the lands required Under the circumstances, where is the necessity for the enactment of new provisions and procedure unless it be to pay as little as possible for compensation.

"Why is it that a particular class holding property in and about Calcutta, and the poor owners of residential houses, some or the majority of which were built when the British settlement was founded here, should be called upon and compelled to conform to peculiar provisions which would entail severe pecuniary sacrifices upon them? Where is the necessity for singling out Calcutta for such drastic treatment which is altogether different from the rest of India?

"The whole tenor of the procedure laid down here seems to favour the idea, and seems to be designed with the object, that lands and buildings are to be acquired for the benefit of the Trust on payment of as little as possible to the property-holders, that those people and the residential house owners should be sacrificed at the altar of the supposed public benefit or the greatest good of the greatest number, otherwise, where is the necessity, I beg to repeat, for the supersession of the time-honoured provisions of the Land Acquisition Act? Where is the justification for the creation of a Special Tribunal for the adjudication of civil rights as has been done under the Crimes Act for the suppression of the crimes of anarchy and sedition? I humbly beg to point out that the words 'Special Tribunal' have now come to have a sinister meaning attached to them, for they now connote a Tribunal for the trial of heinous offences against the State.

"A Tribunal may be a better Court in the opinion of the Hon'ble Mr. Bompas, but when people in one voice say we do not want it, why thrust it upon them? Please keep your own better Court to yourself. The only object is to pay little or nothing for compensation, to give the trial the appearance of trial by jury and to make the decisions unappealable, and thereby get rid of the obnoxious High Court. The Hon'ble Mr Bompas will intimate in what cases appeal would be allowed, that is, unreservedly in all cases where the question relates to apportionment, that is, when the question relates to parties themselves but not in the case of awards relating to the amount of compensation, in the latter case when the amount of claim exceeds Rs. 5,000 the appeal should be on the certificate of the President.

"Next, I beg to point out that the constitution of the proposed Tribunal is extremely faulty and one-sided. Where is the necessity for associating two assessors with the President of the Tribunal unless it be to give it the appearance of a trial by jury and to make the decision of the Tribunal final and unappealable. If we are to have assessors, which, in my opinion, is

quite unnecessary, then they must not be dependent on the favour of Government for their appointment. I beg to point out that if both the President and one of the assessors are to be appointed by the Government, the public can have no faith or confidence in such a Tribunal.

"The several Indian High Courts have, from time to time, laid down the dictum that it is not sufficient that justice would be done by a certain Tribunal or judge, but the party concerned must be convinced or must have faith that he will have justice from such a Court or Judge.

"In the case of such a Tribunal as proposed here, it is rightly apprehended that the decision of the Tribunal in more than ninety per cent. cases will be shaped, moulded and coloured by the views of the President whose decision will be the decision of the majority of the Tribunal. Under the circumstances, instead of giving us the show or appearance of trial with the aid of assessors, I earnestly appeal to Your Honour and to the Council to provide in the Bill for the appointment of two additional judges for the speedy trial of the very numerous land acquisition cases that would naturally crop up in executing the improvement scheme, and give the parties aggrieved, the usual right of appeal to the High Court."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR, said :—

"With regard to this clause I beg, in the first instance, to raise the question as to whether this Provincial Council has authority to create a Tribunal for awarding compensation for lands acquired, not contemplated by the existing Act of 1894, which is an Act passed by the Imperial Council. It is true that the powers of the Provincial Legislative Council have been enlarged by the Parliamentary Indian Councils Act of 1861 and 1892, but I venture to submit that those enactments do not authorise or justify, or give jurisdiction to this Provincial Council for enacting a law as is sought to be passed by this Bill. I am afraid the Bill, if passed, would be *ultra vires*. Act I of 1894, as a whole, is not going to be repealed or amended, and therefore the assumption of jurisdiction by this Council, in my view, is not in consonance with the provisions of the Parliamentary Acts. The jurisdiction of the High Court would be affected, and this Council, I beg to submit, cannot adopt any Act which would affect the rights, privileges and jurisdiction of the High Court. The Tribunal sought to be created will not be a court as has been held by the Bombay High Court in a case reported in 27 Indian Law Reports (Bombay Series). The Tribunal with the Assessors would be merely a body of arbitrators performing the functions of a Court. Should, however, the Council be pleased to hold that it has jurisdiction, the question that will next arise would be, is there any justification or necessity for this Special Tribunal?

"Clause 61 B (*now 70*) provides for the creation of a Tribunal for the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act of 1894. Clause (*d*) of section 3 of the Land Acquisition Act of 1894 is sought to be amended by the insertion of the words 'and except for the purpose of section 54 of this Act, includes the Tribunal' in the Bill. This Act I of 1894 has been in operation not only in this Province but throughout British India for over 17 years, and the Court has administered the law to the satisfaction of all concerned. Why should there be then this new departure? Facts, and strong, cogent and valid arguments ought to be brought forward for the justification of this new departure. One law ought to govern all His Majesty's subjects, at least in one province. No reasons for such a change in the forum can be gathered from the Statement of Objects and Reasons in the Bill. The preamble is also silent. From the notes on clauses 62-67 (*now 72-77*), it may be inferred that this Special Tribunal is sought to be created on account of the proceedings being numerous and hence a Special Tribunal, as in Bombay, has been considered necessary. Largeness of the number of cases, in my opinion, does not render it necessary to create a Special Tribunal, because under the existing law (the Land Acquisition Act of 1894) special judicial officers can be appointed by Government, as the Government has

[*Babu Bhupendra Nath Basu.*]

hitherto been doing. Difference in the value of town lands and suburban and rural lands can never be considered a valid ground for the creation of a Special Tribunal, or for the enactment of different laws for different places. A plot of land in Calcutta would be of very high value. Similar plots of land, say, in Bankipore, Muzaffarpur, Murshidabad, Nadia and Jessore would fetch different values: in that case different laws for the disposal of claims in different districts have to be enacted. An argument has been put forward that the Special Tribunal, as provided in section 18 of the Bombay Improvement Act, has worked satisfactorily, but I venture to submit that the system has not given satisfaction to the general public. Even if it be conceded for the sake of argument that the Special Tribunal in Bombay is a success, that is no argument for the innovation sought to be introduced in Bengal. If it could be shown that the Act of 1894 has been a failure in Bengal and has not worked satisfactorily, then that may be a justification for the institution of a new forum for the trial of cases.

"I beg now to conclude that clause 61 B (*now 70*) be omitted, as this Council has no authority to pass such a law as is contemplated by this clause, and that there is no justification for it on the ground of necessity."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Your Honour, I am thankful to Your Honour for granting me some time to move this amendment. This is one of the crucial points of the Bill, namely, the Tribunal to be provided for the disposal of cases. It is more important than any amendment that we have ventured to place before this Council for the past two days and more important, I think, than any that will follow, for it is a trite saying to say that after all every measure of Government must be tested by the measure of justice it seems to mete out. Why is it and how is it that the ordinary Tribunal which has decided land acquisition cases all along up to now without any serious complaint should be done away with. No indication has yet been given as to why this course has been followed. The only indication that I can find is the model of the Bombay Act. Well, Sir, this following of the Bombay Act may be carried too far. When we seek to apply English models we are met by the doctrine of the Fur coat. When, in other matters, we seek to establish that the people of Bombay and Bengal are the same, we are met by the argument that India is composed of divergent creeds and different nationalities as opposed to each other as the Poles, and that their claim to any representation based upon the question of similarities is not to be taken into consideration. Only on a recent occasion a retired Lieutenant-Governor has given expression to that opinion in England. Well, Sir, if in every other matter that affects the welfare of the people of India the argument is advanced, and advanced with some show of justice, that the law of analogy cannot be applied because they are not analogous, why should it be in the case of land acquisition under this Act? Nothing has been said. Let us see the grounds which might justify it. We have not got them yet. I suppose my hon'ble friend Mr. Bompas will come out with them very soon. If it is intended that there should be expedition, why, the Land Acquisition Act, as we have got it, does provide that the Collector may take possession of land before awarding compensation and may make over the land to the acquiring authority. If it is on the question of cheapness, why, the people concerned do not want cheap Tribunals for cheapness and the other element to which I did not refer are always invariably associated in the minds of the people, but it is not desirable that there should be in the minds of the people a belief that they will not obtain justice from this Tribunal. On the one hand, we have got a scheme—an Act for carrying out Improvement schemes in Calcutta which is very drastic in its nature. On the other hand, we have got a Board—a small body, oftentimes conducting its operations in privacy and secrecy, and, I have been trying to point out, with the elements of popular representation very weak, if at all present there. Between the people and the operations of a Board like that the only safeguard is your Tribunal. Why then give the go—by to the Tribunal which the people have come to know and to respect; why introduce a novel procedure.

[*Babu Bhupendra Nath Basu.*]

I, for my part, and many in this Council and elsewhere, do not like Special Tribunals under particular Acts. Courts are, after all, the greatest shields of the people's rights, and big and specially constituted Courts are not at all looked upon with confidence. Is it not desirable that your Court should command confidence? Is it quite so certain that people in Bombay have confidence in their Courts? There will be in your Tribunal a Government official appointed as a President. Generally, this official, I may take it, will come to Calcutta, with very little knowledge of the state of things in Calcutta. I may tell you, years ago when under the previous Land Acquisition Act there was the provision of assessors being associated with the Court and nominated by the parties, I had the misfortune of being appointed an assessor when land acquisition cases were being dealt with in respect of the road now known as the Harrison Road. There was a gentleman, the President of Court, who was a recent arrival from Barisal, and there was a claim put forward by a party for a sum of Rs. 80,000 for a *cottah* of land, and this gentleman from Barisal said this was a preposterous claim, for Rs. 80,000 would buy a big pargana in Barisal. I said it might, but it would hardly buy more than a *cottah* of land in Harrison Road, and considerable time elapsed before he came to realise the great difference between parganas in Barisal and the value of land in the centre of the Empire. And more than that, in the ordinary Tribunals, as now constituted, we have got the right of appeal. That keeps the Tribunals straight. My friends here, who have exercised large judicial functions, must be aware that where there is a right of appeal, greater care is bestowed upon the cases—at least upon the records being properly kept—than it would otherwise be. When that safeguard is withdrawn, that amount of care is not likely to be bestowed. It does not matter however high you put the character of the Tribunal, if you take away from the people the right of appeal against the judgment of this Tribunal If you give to the people a right of appeal, I have nothing to say. I have shown that under the existing Land Acquisition Act you can proceed as expeditiously as you desire. That the cost of the parties before the Special Tribunal will not be less than the cost before the ordinary Courts is almost self-evident The question at issue is so great, and the values of land to be taken will be so large, that the people will have to seek the assistance of experts—experts in surveying and valuation and in law, and, as my friend knows, experts in any department of life including the civil administration of the country are expensive commodities, so that their expense will be just the same—the expenses so far as the people are concerned, whether they have got their cases before the Special Tribunal or before the ordinary Tribunals. Thus, by taking away the right of appeal, what is it that you gain? Will you tell me what you gain? What you think you gain is the avoidance of vexatious appeals. As you know, when a man carries on a civil case on to appeal he does so at his own risk as to costs. That in itself ought to be a sufficient protection against the vexatious appeals. But more than that, it is not a mere hypothetical case that I am putting. I took the trouble of gathering some figures from the records of the Original Side of the High Court for the last three years. In 1908, there were 1,117 cases and 66 appeals; in 1909 there were 1,185 cases and 62 appeals; in 1910 there were the same number (1,185, and 76 appeals. That is not much, 6 to 7 per cent., or less than that, of cases taken on to the Appeal Courts is not much: then where is the objection to the ordinary Tribunal. Let us take the procedure that they follow in England in these special cases of Town Improvements and Town Planning. There is an arbitrator appointed between the local authority and the people by the Local Government Board, but against the decision of that arbitrator the right of appeal is given. In this country, the right of appeal against the arbitrator's decision is very much restricted, but under the land acquisition cases in England, in every case of damage by sufferance, there is an unrestricted right of appeal. In other cases there is an appeal from the judgment of the arbitrator where the value exceeds £1,000 or more. There I can understand some reason for the procedure adopted. An arbitrator dealing between the parties appointed by an authority which has nothing to do with the local body or people, can expeditiously deal with these matters before him in issue. But should he go wrong there is the right of appeal upon a certificate of the judge to the jury.

[*Mr. Bompas.*]

You intend to deny us this privilege. Well, Sir, you may say 'beggars cannot be choosers,' but at the same time it is my duty to point out to you that while creating a lot of discontent, while shaking what ought to be very dear to me and to you, namely, the confidence of the people in the justice of your administration, you are introducing a machinery which will serve no useful purpose, which does not in any way help you beyond the ordinary procedure that is at present followed under the Land Acquisition Act. If that is so, why should you not follow it. Is it because it is in Bombay, that we must slavishly adopt what they have got there. Why not trust to time. We may find that the ordinary Tribunal which we have now got under the Land Acquisition Act is able to do its work in connection with the scheme as it has done its work in the past in connection with other schemes. If they fail, what is there to prevent you from bringing an amending Act; you will then be greatly strengthened by the experience of the past behind you, and you will then be able to tell us 'we have tried and we have given a fair chance to the Tribunal as it stands, but it has failed and therefore we must have something else.' Here you anticipate; why should you do that? In a matter of such a serious import it is the only safeguard against arbitrary acquisition and arbitrary compensation. You seek to introduce a Court which will be looked upon with suspicion as the creation of the Board itself, or rather the creation of a body for the purposes of the Board. You have tried that experiment under the Calcutta Municipal Act by the creation of a special Magistrate. Where is the official in Bengal who will have the hardihood to say that that Tribunal has commanded the confidence of the public of Calcutta. I say this before the Chairman and the Deputy Chairman who was there until lately. Will the Chairman say that the people are satisfied with the work done in that Court? I will not impugn that work. I will not for a moment say that the work is done unfairly or unjustly, but I say the feeling is that it cannot be done justly; though it may be done with as much fairness as the work of any other Tribunal. Therefore, I say there is no ground for the creation of this Tribunal, no necessity and therefore this clause should be omitted and the Land Acquisition provisions should be left as they are under the present Act. They will do you no harm, on the contrary they will do you much good."

The Hon'ble MR. BOMPAS said:—

"Sir, we have now heard three members of the Council who object to the constitution of the Tribunal for the trying of land acquisition cases under this Bill. But I think that when I explain it to them there will be very small ground for quarrel between us. The usual procedure in a land acquisition case is that it is first tried by a Judge, against whose decision an appeal will lie to the High Court. We are asked why we are not content with that procedure. The answer is that we are confident that the Tribunal is a better Court than the Court created under the Land Acquisition Act. There are two reasons why the Tribunal will be a better Court. It is in the first place intended to be a Court of Experts. In England, the valuation of land when compulsorily acquired for public purposes is not a matter for the decision of the Civil Court. Such cases never go before Civil Courts at all. The procedure in England referred to by the last speaker is as follows:—Cases under fifty pounds in value are summarily decided by a Magistrate. In cases over fifty pounds in value—there is provision for determination of the compensation payable by two arbitrators, one appointed by the promoters of the undertaking and one by the claimant, with an umpire, who is generally appointed by the Board of Trade and who is an engineer or a surveyor. The award of the arbitrators or umpire can only be set aside by the Courts for excess of jurisdiction, otherwise no Court of law in England can interfere. If the parties will not agree to accept the decision of the arbitrators, then the compensation is assessed by a jury,—not a jury sitting under a judge, but under the Coroner or the Sheriff, who sometimes, calls in a barrister as Assessor. That is the usual procedure. But when land is

acquired under Acts relating to sanitation, it is somewhat modified. Under these Acts, as finally amended in 1909, if land is taken for an improvement scheme, compensation is determined by a single arbitrator appointed by the Local Government Board. If the award exceeds £1,000, the party dissatisfied with the award may apply to the High Court, and if a Judge is satisfied in a summary manner that a failure of justice has taken place, he gives leave for the appointment of a jury to try the case. That jury does not sit under the judge and does not know the award of the arbitrators. It may lower as well as raise the original award. But in smaller cases there is no appeal to a jury at all. Where land is acquired for building houses for the working classes, it is expressly provided that the single arbitrator shall neither hear Counsel nor assessors unless he is specially empowered so to do by the Local Government Board. This is the method which in England has been considered to be the most satisfactory method. In India, when the first Land Acquisition Act was introduced, Government adopted the English method. The system of getting lands valued by arbitrators, at least in the mufassal, at once broke down because there were no such trained experts as exist in England, with their long and special experience. Therefore, it was speedily arranged that the assessors appointed by the different parties should sit under a judge and that system continued for several years. When, however, the law came to be amended in 1894, the assessors disappeared because it was found that, even when sitting with a judge, the assessors, the class of assessors that were available, instead of helping the Judge to come to a right conclusion, acted as mere partisans. They were faithful to their trust, as was observed by Mr. Justice Parker of the Madras High Court, and delivered their opinions with their minds totally unaffected by the evidence. So the assessor system proved a failure in this country, and these cases began to be tried by a single judge—a method which was deliberately adopted owing to the impossibility of getting impartial assessors in the mufassal. But the conditions are different in Calcutta at the present day: experts in land valuation are procurable, and it is desirable to appoint a Tribunal for the trial of such cases which shall be an expert body. This body will be better fitted than any Civil Court without any expert knowledge. It is only by an accident, as it were, that the system has grown up in Bengal and in India of having valuation questions decided by lawyers. It is said that the procedure followed in the past has proved satisfactory. It is of course not open to me or to any one on this Council to criticise individual decisions of the Courts in land acquisition or any other cases. But everyone who has experience of the Corporation knows that the results of land acquisition cases in Calcutta have been so unfavourable to the Corporation that the general opinion is that the method of valuation adopted by the Courts was not satisfactory. The Building Commission, which was presided over by a High Court Judge, advised, expressly in view of the 'extravagant prices' which the Corporation was made to pay in certain cases, that a special rule should be framed for valuation of Calcutta properties, and this was subsequently introduced in the Calcutta Municipal Act, and by it unless the contrary is proved, the property is valued at twenty five times the municipal valuation. I can, moreover, say that not only on these grounds is an expert court necessary, but we have also the experience of Bombay. There, a Tribunal has been created to try land acquisition cases on the same lines as this Tribunal. I will not raise the question of what amount of public confidence the Tribunal enjoys, but only say that from inquiries which I made in Bombay from many lawyers, I learn that in the opinion of the legal profession the Tribunal enjoys great public confidence. I will only produce some judgments which will show what the Bombay High Court thinks of the decisions of the Tribunal. Here is a case involving Rs. 1,09,000:—

'The judgment states that it is common ground that in this case rental should be the basis of calculation: so that after arriving at the net rental what has to be determined is the rate of return investors in this class of property expect, for this will determine the number of years purchase to be allowed, after giving due weight to any special conditions.'

'It is then obvious that the inquiry is essentially one where experience is of the greatest use, and in this respect the Tribunal is in a far stronger position than this Court. It has been in existence and at work for some years, and though its members have changed

from time to time, still it must have gained from the multiplicity of cases that have come before it an insight into the value of land in Bombay which we do not possess, and an experience which must make this Court slow to interfere with its adjudication on a question of value, involving no legal principle, in the absence of evident error.'

'Though the President of the Tribunal is a gentleman well known as a careful lawyer, still it cannot be regarded as a Tribunal possessing only legal qualifications, for associated with the President are two gentlemen obviously selected on the ground of their fitness to deal with questions of land valuation, one of whom at any rate has had considerable professional experience in such matters in the city of Bombay.'

In case XXXIII Bom. Mr. Justice Bachelor says:—

'In these circumstances, and having regard to the special knowledge and experience possessed by the Tribunal on such points, we must adopt the alternative finding.'

In 14 Bombay XXIX 565, Sir L. Jenkins says:—

'The Tribunal made an award based on hypothetical development of the land. Only matters of fact were involved and those of a very special character requiring the application of expert knowledge and opinion'

'The maxim that a court of appeal ought never to reverse the judgment of an inferior Court unless quite confident that that judgment is wrong, applied with special force to appeals from the Tribunal.'

After reviewing the professional qualifications and experience of the two assessors—an Engineer and an Architect the judgment proceeds—

'It is obvious then that though we are in no sense bound by the determination of the Tribunal, its opinion is entitled to the greatest weight on the matters which arise in this appeal and that its award is not lightly to be set aside.'

"Can any one say after this that the Government propose to establish the Tribunal for the purpose of attacking rights of property in Calcutta? In the opinion of the Bombay High Court, the Bombay Tribunal is a most eminently fitted body to try valuation cases, and its decisions have so far given satisfaction that there were only a few appeals against them In view of those facts, the advisability of the appointment of an expert Court will not be questioned.

"But there is the question of appeal. The Hon'ble Babu Bhupendra Nath Basu has said that if there is an appeal against the decision of the Tribunal he will be content I am sorry to detain the Council, but as it is an important matter, I must explain it. In the Bombay Act, as it was originally passed, there was a provision that an appeal should lie to the High Court on the certificate of the President. In one of the appeals—the case has already been cited by the Hon'ble Rai Baikuntha Nath Sen Bahadur—the Bombay High Court held that the legislation was *ultra vires* of the Provincial Council. It was held that the Legislative Council could confer no jurisdiction on the High Court. That had to be remedied by the Government of India in 1904 by passing a Validating Act giving legal sanction to that provision which has been passed by the Bombay legislature. It is impossible for us to do anything here that has been decided to be *ultra vires*. It is impossible for this legislature to confer any right of appeal to the High Court—and I will presently ask you, Sir, to rule out of order any amendment which has that effect. But it is obviously fair that there should be some appeal against the decision of the Tribunal. But I submit that if you have an expert Tribunal, of which the High Court speaks in the terms I have quoted, the right of appeal may fairly be limited. No High Court would speak in such a way of a land acquisition judge. It is therefore not unreasonable to say that there should be very few appeals against the decision of an expert Tribunal. In this question the Government has allowed itself to be entirely guided by the High Court of Calcutta. And it seems to me that the critics of this measure will have to make out a very strong case in order to make us abandon what has been accepted not only by the Government of India, but also by the Calcutta High Court. The letter of the High Court has been circulated as a paper to this Bill. It will be remembered that the Chief Justice and the Judges stated that an unrestricted right of appeal should not be allowed against the decisions of the Tribunal. They suggested that the High Court should have power to grant special leave of appeal in cases over five thousand rupees, provided that such an appeal should be restricted to points of law only, that is to say, to points on which generally a second appeal lies to the High Court. The suggestions of the Hon'ble Judges were accepted *in toto*. The Government of India were asked whether

they were prepared to consider a Bill drafted on these lines, and they have intimated their willingness to do so, and that they are prepared to undertake such legislation as may be necessary. A draft Bill has been submitted in which it is provided that an appeal shall lie in all cases in which the President sitting alone decides a matter that will be principally questions of apportionment. The appeal will also lie against the decision of the full Tribunal if the President grants a certificate. If the President refuses to grant a certificate in any case over five thousand rupees, a motion may be made to the High Court which may grant special leave of appeal This is our special safeguard. The Hon'ble Member who spoke last is now, I hope, satisfied with the right of appeal which now gives all that in the opinion of the Judges of the High Court is wanted, and I hope he will withdraw his amendment.

"There is one other point raised by the Hon'ble Rai Baikuntha Nath Sen Bahadur, in which he raises the question whether this whole legislation regarding land acquisition is not *ultra vires*. This is a matter that might more fittingly be dealt with by the Legal Remembrancer; but as I understand the case it is sufficient that the Government of India should sanction all those clauses of this Bill which affect the operation of the Land Acquisition Act, and such sanction has in fact been obtained.

"I think, Sir, that I have dealt with all the points that have been raised, except that I would convict the last speaker out of his own mouth as to the desirability of assessors. He quoted a case where he sat as an assessor with a Judge from Barisal who was doubtless a good lawyer, but was entirely ignorant of the value of land in Calcutta. The Hon'ble Member's local knowledge enabled him to show the incorrectness of the opinions of the lawyer judge. We are creating an expert Tribunal; and because it is expert no appeal on mere questions of valuation is required to the High Court—a Court which is already so much congested with work that it need not be overwhelmed with the work which will be undertaken by the Tribunal."

The Hon'ble BABU MAHENDRA NATH RAY said:—

"I rise to support this amendment, and I venture to offer some observations in addition to those advanced by the last speakers; and as the subject is a legal one, I do not desire to remain silent on this motion. The large number of amendments which are on the list show that both the proposal for the constitution of the Tribunal and the proposal for the modification of certain provisions of the Land Acquisition Act will be very hotly contested in this Council. I apprehend, Sir, that the large powers with which it is proposed to vest the Tribunal are liable to be abused. The decisions of the Tribunal will not always be satisfactory. The non-official Members of this Council on several occasions have tried to support their argument by precedents furnished by the English statutes. The danger, however, of relying on the English statutes will be manifest on the present occasion. There is no doubt that the provisions regarding the constitution of Tribunal, as well as the modifications suggested of the Land Acquisition Act, are all based more or less upon English statutes. As regards the modifications proposed in the Land Acquisition Act, some of the most important modifications which would be contested in this Council, for instance the disallowance of the additional compensation for compulsory acquisition, are all based on the English statutes, so that it is not always safe, when considering the legislation to be proposed in the circumstances of this country, to rely upon English statutes. The powers proposed to be given to the Tribunal are extensive and, with due respect to the Hon'ble Member in charge of the Bill, I beg to submit that the right of appeal is much restricted. My principal objection, however, to the proposal for the constitution of the Tribunal is this. In this country we have not yet formed that high ideal of sanitation or have not got that keen appreciation for sanitary needs that the mass of people in England and any other highly civilised countries have. Moreover, a proposal to bring a large area under an improvement scheme is generally welcomed in England, where we find a large number of private philanthropic agencies coming in to provide funds for promoting these improvement schemes. But improvement schemes introduced in this country on such an extensive scale as the scheme now under consideration in Council do not generally meet with the approval of the people of this country. Now

under such conditions it is, I submit, the duty of the legislature to legislate in consonance with the growth of public opinion. If that is so, let us examine this measure accordingly. Whenever, in a country like this, the usual machinery for the settlement of disputes or administration of justice is proposed to be replaced by special measures, a suspicion is aroused in a large number of cases that the proposed special measures would virtually amount to a denial of justice which had hitherto been administered, and it is a feeling, Sir, which I am bound to say largely prevails. This, Sir, I am afraid is one of the incidents of an alien rule, however just and benevolent, but it is one which true statesmanship should take note of. From that point of view, it is to be asked, has any strong case been made out for displacing the usual machinery for the settlement of such disputes and introducing a machinery which the people generally look upon with suspicion as calculated to deny justice hitherto administered? The onus, I submit, lies on those who desire to introduce the new machinery to prove that it would be found efficient if introduced, and in spite of what the Hon'ble Member in charge of the Bill has said, I submit the onus has not been discharged. The Hon'ble Member in charge of the Bill said that the present system is unsatisfactory inasmuch as the determination of valuation is not left to experts, as is the case in England and other countries. If that view be correct, it is rather a criticism against the present land acquisition law which it is not proposed to abolish, and it is rather essential in that view that the whole of that law ought to be repealed by the Supreme Legislature, and that valuation in all cases of compulsory acquisition should be left to experts henceforward. I do not know whether the Government would be willing to countenance and give effect to that view by some substantial modifications of the present Land Acquisition Act. If the provisions of the Land Acquisition Act would be found to work well in areas not covered by the Improvement Scheme, it is difficult to say that they would not be found to work as well in the areas covered by it. Upon this ground, Sir, I shall venture to submit that the proposal for the constitution of the Tribunal is premature, and that until it has been found by experience that the existing machinery for the settlement of disputes is inefficient, the public would not be prepared to receive such a substantial change in procedure without suspicion—though the suspicion may be unfounded. I have very little to add, Sir, but I am bound to say as a lawyer that I do not agree with the Hon'ble Rai Baikuntha Nath Sen Bahadur that this piece of legislation would be *ultra vires*. It is too late in the day to question the power of a Provincial Legislature to modify or repeal any Act passed by the Imperial Legislature for the purpose of the Province, with of course the necessary sanction. And I say further that the correctness of the decision of the Bombay High Court that a Provincial Legislature has no jurisdiction to deal with rights of appeal to the High Court is at least open to question."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I was anxiously looking out for the bold man, that the Hon'ble Mr. Bompas wanted, to take his stand against the high authority of the High Court. I am glad that the Hon'ble Babu Mahendra Nath Ray has after all broken his vow of silence and treated the Council to a maiden speech upon which, without presumption, I may claim to congratulate him. I did not, however, bargain for the latter day David going so far as to question the high dictum of Sir Lawrence Jenkins, in questioning the validity of the Bombay Act as it then stood, and which, as a result of that dictum, had to be validated. I raised the question that has been referred to by the Hon'ble Rai Baikuntha Nath Sen Bahadur very pointedly in connection with the Calcutta Police Act. That contention met the usual fate of all our contentions. But the broad fact of the highest judicial authority of the land questioning the validity of Provincial Acts legislating in this particular way stood and stands, and the Government of India accepted the condition by passing a validiting Act for Bombay. What was done in Bombay by way of a later corrective Act is attempted to be done here under the cover of sanction of the Government of India under the Indian

Councils Act recited in this particular case in the preamble, an omission in the case of the Police Bill that is fortunately made up here. If, Sir, that authority remains unchallenged in spite of the opinion of the Hon'ble Babu Mahendra Nath Ray, as it must, I really do not see how, if this legislature could not confer the right of appeal on the High Court, it can take away from the jurisdiction of the Courts of the land constituted with regard to this particular purpose under section 3 of the Land Acquisition Act This section insists upon all questions being dealt with by a Court, and not a body carrying on the functions of the Court, which is the happy phraseology of the clause, following the Land Acquisition Act phraseology for quite another object, that we are now criticising. The Court contemplated in that section of the Land Acquisition Act no doubt is a creation of the Government of Bengal, and if the ordinary Court fails, the section provides that the special judicial officer within the specified local limits may be deputed to perform the functions of the Court under this Act. I do not know, Sir, whether the words 'perform the functions of the Court' here have been borrowed from section 3 of the Land Acquisition Act or have an independent genesis. If the first happens to be the alternative in question, it is difficult to understand why elaborate and painstaking provisions should have been necessary to arm the Tribunal with powers which the Government would have vested it with without such provisions, if the Tribunal continued to be a Court in the sense of section 3 of the Land Acquisition Act. I refer, for example, to sub-clause (*c*) of clause (61.C) (*now 71*), sub-clause (*3*) of clause 56 (J) (*now 64*), under which, for the purpose of determining any matter referred to in the sub-clause, the Tribunal shall have all the powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act of 1894 was applicable to the case, and to the clause under which the Tribunal shall have power to summon and force the attendance of witnesses and compel the production of documents by the same means as are provided under the Code of Civil Procedure. Sir, two lawyer members of this Council have described the Tribunal as more or less occupying the position of an arbitrator. That is the position also attributed to it by the analogy of the English Acts by the Hon'ble Member in charge of the Bill. The point of agreement between the non-official lawyer members of the Council and the Member in charge of the Bill is complete with regard to this, that the Tribunal is an arbitrator such as they have under the English Acts. And, as the Hon'ble Babu Mahendra Nath Ray has pointed out, he is an arbitrator appointed by the Local Government here, corresponding to the Local Government Board in England. That appears to be the unquestionable position of this Tribunal. If that is so, where do we stand? A student of the Evidence Act will know, on referring to section 1 of that Act, that it has no application to proceedings before an arbitrator. The most important safeguard of a Court of Law, the Evidence Act, that mighty piece of intellectual legislation that has not been surpassed in this country and not even approached, will be altogether unavailable for the purpose of all trials or proceedings. And if the High Court has any right of hearing appeals from such a nondescript Court, it will be by a mere sufferance of the Imperial legislature, such as we have been promised in the course of the speech of the Hon'ble Member in charge of the Bill. Is that a satisfactory state of affairs with regard to important and engrossing interests like those at stake? I venture to think not. Sir, if there was not some doubt of the kind that I am indicating, I doubt the possibility of the Evidence Act being applicable to the proceedings before the Tribunal. But for such doubts and misapprehensions, I am afraid sub-section (*c*) of clause 61C (*now 71*) and sub-section (*3*) of clause 56J (*now 64*) would not have found place on this Bill, and if my apprehension is well-founded it is the greater reason for not having the Tribunal, but to adhere to the Court provided by section 3 of the Land Acquisition Act. Sir, we have been told that a Tribunal must be a very excellent body, because so far as its valuation is concerned in the many Bombay cases referred to by the Hon'ble Mr. Bompas that valuation was not upset. It stands to reason; because there are on that Board experts well-acquainted with the question of valuation—exactly what would be if we have a body of capable and trustworthy experts standing or otherwise to give evidence, to assist

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Mr. Oldham; the President.*]

the orthodox Court in dealing with these matters, if the existing machinery was not attempted to be disturbed in the way we are seeking to disturb it by clause 61C (*now 71*) (*d*). Experts of that high capability and character would carry weight with all Courts, and, if it has been the misfortune of the Calcutta Corporation not to have been able to command the services of experts like these, by reason of which they may have suffered in the course of Land Acquisition proceedings and in which they may have come off second best as has been referred to here, it is a matter capable of remedy; all that you want is to have proper experts in the witness-box, such as are attempted to be made a part of the tribunal. A reference has been made to the deliberations of the Building Commission, which are supposed to have been so angry at the state of things obtaining regarding exorbitant prices that had to be paid, that they thought of adopting the rule of thumb; but a rule of thumb has application only with regard to certain cases, that is to say, where it could not be affirmatively proved that the value was more. The moment that could be done the rule of thumb would cease to have any application. Therefore, that is a matter again which does not help us. We are entitled to go to the recommendation of the Building Commission and see how they dealt with this particular question in their recommendations."

The Hon'ble MR. BOMPAS said:—

"I think that the Hon'ble Member's version of that recommendation is somewhat incorrect. Will the Hon'ble Member kindly read paragraph 138(*f*) of the Report."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I was not going to trouble the Council by reading the whole of it. But as my friend wishes me to read it I will do so.

'In order to prevent to some extent fictitious transactions for the purpose of enhancing the apparent value of property to be acquired it may be well to exclude evidence of dealings with the property within two years before the declaration.'

"I do not know whether, unless you prove to the contrary, that would be the rule of thumb. But, Sir, I was drawing the attention of the Council to quite another matter with regard to the mode of trying these claims, and that is dealt with in paragraph 141. I was telling the Council that this was in 1897, about three years after the Land Acquisition Act had been passed and been justifying itself if I may say so. One of the most distinguished Barrister Judges of the High Court was the President of that Commission, and they say in paragraph 141—

> 'The only other suggestion we have to make as to proceedings under the Land Acquisition Act is that, when the amount in dispute between the Corporation and the land-owner exceeds Rs. 5,000, the *High Court* should exercise the power of "the Court" under the Land Acquisition Act. In cases of large amount, proceedings in the High Court are less expensive. Moreover as questions of importance often arise it is better that the higher Tribunal should have original jurisdiction and we believe that the arrangement which we suggest would be appreciated both by the Corporation and by the owners of property in this city.'

The Hon'ble MR. OLDHAM said:—

"Are we concerned with the procedure of the High Court. Is the Hon'ble Member in order?"

The PRESIDENT said:—

"I think it is relevant as to the question whether the Tribunal is the best machinery."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I do not know, Sir, whether the Corporation has changed its mind; the people of the city certainly have not. But the *tertium quid* has come and that is the Trust; and those responsible for inaugurating that Board think

[Babu Deba Prasad Sarbadhikari.]

that it is an advantage to be as far away from the ordinary law and from the ordinary Courts of the country as possible.

"I hope nobody else would again be rising on a question of order when I refer to another assertion of the Hon'ble Mr. Bompas that it would not be desirable to let the High Court be flooded with appeals because of its congestion. The High Court itself has said nothing in that particular way. The general tendency now-a-days of course is to abridge appeals. We have evidence—and I was going to say painful evidence—of that in the gradual evolution of present appeal sections of the Civil Procedure Code. Appeals on questions of law, such as section 100 of that Code contemplates, would be little relief to the present situation, for rarely would any questions arise in connection with land acquisition cases and none could arise in connection with the question of valuation. We cannot complain of that here, and if we did, questions of order would probably arise. But we must remember that under the new legislation now going through Parliament, the strength of the High Court is to be increased and no question of pressure of work or congestion would arise. Before the strengthening of the Court was ever attempted or thought of, the Hon'ble Mr. Justice Trevelyan, who worked as hard as any of the latter-day Judges, did not shirk the responsibility of the High Court, and said that with regard to the high claims it would be convenient all round to give original jurisdiction, to the High Court, so that questions of valuation of importance, such as usually arise, could be dealt with more satisfactorily. If questions of importance were likely then to arise, which the Hon'ble Mr. Justice Trevelyan properly asked to provide for, by laying down the Rs. 5,000 limit of jurisdiction, at the time of his recommendation as President of the Building Commission, much more important questions are likely to arise in connection with the administration of a Trust like this. Therefore, I say that it is not only right but desirable that the ordinary machinery of the land, so far as the administration of justice is concerned, should not be interfered with. If there is any doubt in the mind of the Government as to whether a particular officer is fit to do the onerous duties that will be cast upon the special judicial officer contemplated by section 3 of the Land Acquisition Act, it is always open to it to make the best possible appointment under the circumstances, and to appoint as many judges as it thinks fit and necessary. The question of cheapness has been referred to by the Hon'ble Mr. Bompas; but I do not think that the Tribunal, after all, will be so very cheap a body, and more than one judge under the Land Acquisition Act will be sufficient to deal with all the emergencies. There will be no delay in completing the land acquisition, and the machinery will run on smoothly and all the safeguards that the people think necessary will be provided. Sir, the failure of the appeals to the Bombay, High Court has been referred to with seeming effect by the Hon'ble Mr. Bompas. The question of appeal and the question of assessors are bound to be mixed up and I see with regret that appeal after appeal is failing in Bombay, which does make us apprehensive, however much such judicial triumphs may benefit the trust. Why need there be any apprehension that the trusting time-honoured Judicial machinery, for retention of which we plead, will be attended with disastrous results? There is no occasion to think that, so far as the Objects and Reasons on this particular clause is concerned, all the opinion published was that such proceedings will be numerous and that a special Tribunal will be required as in Bombay. That statement of Objects and Reasons has to-day been supplemented, and I must say with great power and clearness, by the Hon'ble Mr. Bompas; but what does it come to? After all the Tribunal which has been provided for is just the same as they have in England in the shape of assessors and arbitrators, and we ought not to complain. That is not enough or satisfactory, and we say that you have not shown any cause why the orthodox legal machinery of the land should be interfered with, or why the current procedure should be departed from. That is a thing to be proved without a loophole of doubt and misapprehension before such a revolutionary charge is made, even though Bombay had it forced upon it under peculiar circumstances at a crisis. And until that is done—the Bombay precedent or not—this clause cannot justly find a place in the Statute Book of this country, if what we consider to be the rights of the situation are to prevail.

[Babu Deba Prasad Sarbadhikari.]

"Sir, reference has been made to the reasons which led to the abandonment of assessors in 1892—strictly speaking, because it was then that the Bill was introduced. The Hon'ble Mr. Bliss, in introducing the Bill on the 11th March 1892, and in reference to the Land Acquisition Act of 1870, said :—

"In England there are many men, in all parts of the country, who make land valuation the business of their lives. In this country, there are no such persons, save perhaps a very few in three or four of the larger towns. What happens in practice is that the person interested appoints an assessor, who is virtually pledged beforehand to endeavour to protect and advance his interests. The Collector's assessor is under no such understanding, it is true, but is very probably indisposed to go against the Collector. The assessors are supposed to be remunerated by the fees provided for by the Act, but it is credibly reported that in heavy cases the claimant's assessors receive additional fees by private arrangement, while it is certain that the Collector cannot secure the services of competent persons from want of power to grant them adequate remuneration. Under all the circumstances, it seems to me idle to suppose that the employment of assessors can in any way lighten the labours of the Court, or relieve it of responsibility, or ensure justice as between the Government and the persons interested."

"That is stronger language than the language referred to by the Hon'ble Member in charge in quoting from Mr. Justice Parker, who thought that the assessors were far too faithful to their trust and were impervious to all evidence and arguments. I am afraid, although the question of corruption or misconduct can never come up with regard to the assessors such as those we are seeking to introduce here much of the observation of the Hon'ble Mr. Bliss will continue to apply to the case. There will be no statement of principles which should guide the assessor, such at all events as the Land Acquisition Act contains and such as we think ought to be insisted on. Then again, there is no obligation on them to give reasons for their findings such as you except in the case of a regular and orthodox proceeding in a Court of Law. Of course there will be no chance of wasting public money, far less of robbery, and the evil will be quite the other way; but the evil will be none the less if the owners unjustly suffer, as it is apprehended they will do. That was the pronouncement of the higher legislature with regard to the question of assessors not many years ago, and when the Buildings Commission came to deal exactly with the same question four years later, they had no improvement to offer on the existing machinery [Act I of 1894], except to indicate that in the larger cases above Rs. 5,000 the original jurisdiction should be conferred on the High Court so that expeditious hearing of the cases could be insured. Why is it that we are going back to the old assessor system and what are the assessors? If you look at them, the assessors under the olden rules would be representing the interests concerned. Whether that is helpful or not is a matter of more than doubt, and in fact it has been proved and pronounced to be objectionable. Here also the first assessor, that is the President, will be a Government nominee; the second will be appointed by the Government, and the third assessor will be a nominee not of the party vitally interested, but of the Corporation. The Corporation has and must have a distinctly hostile interest so far as that party is concerned, because the ultimate financial responsibility of the scheme is on the Corporation and further they are liable to pay 2 per cent. on the taxes, which would naturally make them anxious to see that as little expenditure was incurred on acquisition as possible. Therefore, so far as the Government and the Corporation are concerned, they will be perfectly at one, they are the parties who are principally financing the situation between them and they would naturally be anxious to keep down the costs as much as possible. Is that carrying out the principle of assessors to its legitimate issue and consequence? I presume not. If it is to prevail at all, some one representing the party vitally interested, whose land you are going to take up, ought to be there; but he is not there. I think, under the circumstances, the authority to deal with the situation ought to be a Court dealing with expert evidences and adjucating on the claim as a whole; that is our ideal as taught by principles of British justice and periodical notions that have not yet been challenged. I do not want assessors; assessors are objectionable and if assessors are objectionable, part assessors are still more objectionable. The parties financing the situation will have their representation on the Tribunal, the party which is to be very vitally affected is to have

none. Therefore, the modified assessor principle is not a sound one. We respectfully submit to the Council that the orthodox machinery of administrating the law ought not to be interfered with."

The Hon'ble MR. B. C. MITRA said:—

"I shall confine myself, Sir, only to one point, which I think legitimately falls on me to explain to this Council, and which the Hon'ble Mr. Bompas has left untouched. This is the only point upon which I desire to make my submission before this Council. It is the question, raised by the Hon'ble Rai Baikuntha Nath Sen Bahadur, as to whether it is within the competency of this legislature to create any Tribunal which affects the jurisdiction of any Tribunal or Court created by the Governor-General of India in Council. That naturally resolves itself into two points. First of all the question arises as to whether this Council has any power to enact any law the result of which would be to affect the jurisdiction of the present Land Acquisition Court. In the next place the question arises, incidentally, as to whether the taking away of the power of the Land Acquisition Court does not indirectly affect the powers of the High Court, which has the power of hearing appeals from that particular Court. With regard to the first question, whatever doubts might have existed upon that subject before the Indian Councils Act of 1892 was passed, there is hardly any doubt on this point since the passing of that Act, which is specifically intended to meet cases of this character. This legislature has power to make laws which, if they receive the sanction of the Governor-General of India, would repeal the existing Act. As to the second part of the question, it might be that the indirect effect of this legislation is to take away from the High Court the power which it now has of hearing any appeals which might arise out of the Land Acquisition Act. If in law this Council has authority to make legislation which would affect the jurisdiction of the Land Acquisition Court, it must necessarily follow, as a matter of course, that, the suit which is instituted in the Land Acquisition Court itself being affected, the appeal must necessarily be affected. Therefore, I beg to submit that that is not a question of affecting the jurisdiction of the High Court. The contention of the Hon'ble Rai Baikuntha Nath Sen Bahadur does not seem to have been based on any solid foundation."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

In this amendment I very frankly acknowledge and appreciate the spirit in which the Hon'ble Mr. Bompas has replied to us. It shows that he is aware of the difficulties that we are struggling against and he has tried to meet them as far as he can from his standpoint. My hon'ble friend says that the Tribunal which he is creating is a better Tribunal. He is giving us something better than we have got under the present Land Acquisition Act. Well, I may say that we, who represent at least the non-official view, are content with what we have got and we do not seek a better Tribunal. It is no business of ours to claim anything beyond what we have got and with which we are pleased and satisfied, and I suppose it is no business of Government to force down our throat something which we do not think is better and which we do not much like. Apart from that, why is it better? It is because my friend says this Tribunal follows more or less the lines of the English system of appointing an arbitrator. This Tribunal will discharge the duties which the arbitrator in England discharges. My friend the Hon'ble Mr. B. C. Mitra, has said that the proceedings of this Tribunal will not be proceedings of an arbitrator. That cannot be. It is a Tribunal and a Court of Law, and its proceedings must be governed by ordinary legal procedure. Therefore, the benefit, whatever it may be, which arises from a case being tried by an arbitrator will not be secured by this Tribunal. Then the only other ground upon which it has based its claim is that it is better—that it will be a Tribunal of experts. Let us see how far it will be a Tribunal of experts. The Tribunal shall consist of a President and two Assessors. The President shall be either a Barrister, Advocate or Pleader of not less than ten years' standing

[*Babu Bhupendra Nath Basu.*]

who has practised in the Calcutta High Court for not less than five years. So that, so far as the question of valuation is concerned, the President certainly is not an expert, except, if I may say so without any disrespect, that a Member of the Civil Service is an expert in whatever branch of the service he is placed. If it is the intention of my hon'ble friend not to appoint a Civilian it makes the case worse, because there also, so far as you can take experts, the President will not be an expert. He will be an expert certainly on questions of law, but not on questions of valuation.

The two assessors in all likelihood will be experts on matters of valuation. But a Judge who is not an expert will be in a better position to decide than if he is hampered by two men who will be experts sitting with him as assessors. For it is quite certain that when a question of valuation has got to be decided, the Improvement Trust on its own side and the people on their own sides, will place before the Tribunal (whatever it may be, whether a Tribunal of experts or non-experts) their own evidence—which evidence will necessarily be the evidence of experts. It comes to this, that whoever is the Court, he will have to decide the evidence as it is laid before the Court. Then, if this Tribunal is exercising the functions of a Court, as clearly it is contemplated that it should, wherein is it that this Tribunal is in a better position than the Tribunal we have got. In this case, the inexpert Judge will, to a great extent, be hampered by the position that the experts will take, experts who may decide the case upon their own knowledge and not upon the evidence before them. For these reasons, I say respectfully that, if there was a right of appeal against this Tribunal under certain circumstances, we should not object to it. My friend says that that right has been given. Then why is it that we object. I will tell my friend that that right of appeal has not been given. The proposal of the High Court, for which, I am glad to find, my friend professes such great veneration, is not conferring upon us a right of appeal, except in those cases in which there would be an appeal by way of second appeal. Well, Sir, that is very different. The High Court says that we can have an appeal under the same circumstances as a party would have a second appeal under section 100 of the Civil Procedure Code. Well, section 100 of the Code of Civil Procedure provides that an appeal shall lie to the High Court on any of the following grounds, namely, (*a*) the decision being contrary to law or to some usage having the force of law, (*b*) the decision having failed to determine some material issue of law or usage having the force of law, (*c*) a substantial error or defect in the procedure provided by this Code or by any other law for the time being which may have produced error or defect in the decision of the case upon the merits. Does my friend contend that that would satisfy the people if an appeal is only permissible when there is misdirection on a question of law, and if they exclude absolutely all appeals against the valuation. I think that it was not present to the mind of my friend, for if it was, I am quite sure that with his characteristic frankness, he would have said so, that this appeal that is proposed to be given to you is mere moonshine, for this appeal will not protect anybody, will not safeguard any interest; whereas under the ordinary law, as it now stands, we have a right of appeal against valuation. Then my friend says that in England there is a right of appeal only where the valuation exceeds £1,000 or which is Rs. 15,000 in Indian money; whereas in India we are generous in giving an appeal in cases of Rs. 5,000. I do not know just now, I am not ready with figures as to what is the exact equivalent to an Indian of Rs. 5,000 as against an Englishman in England of £ 1,000. I am disposed to think, from my knowledge as far as I can rely upon it at the present moment, that Rs. 5,000 of Indian money means nothing to an Englishman at home. That is hardly the point on which I insist; I would be content even if you had raised it to Rs. 10,000. This right of appeal which you seek to give us is not what is wanted. It does not secure to us the protection that we seek. It does not confer upon us the safeguard that is necessary, and in the second place we do not agree with you that you are giving to us a Tribunal which is a better qualified Tribunal than the present, for the purpose of disposing of these classes of

[*The President; Babu Bhupendra Nath Basu; Rai Sita Nath Ray Bahadur.*]

cases to the satisfaction of the parties concerned. If we had an expert at an earlier stage, where negotiations were going on between the party and the Trust for the acquisition of the land, that would be the stage at which expert advice would be very valuable—a stage where you would not be bound by the expert advice but where you would necessarily be guided by non-expert advice. We are entitled to say that you are giving us a much worse machinery for the determination of our rights than we have under the existing law. My hon'ble friend has said that in England the procedure though analogous is different. There where the valuation of the arbitrator is not accepted, it goes to a jury and my friend says that the people in England are so much afraid of the jury that they do not desire to go to the jury. Well, Sir, I am not in a position to say what is the feeling of Englishmen about their jury system. Give us one of your English arbitrators, we do not want anything more. Let it be only an arbitrator appointed by Government. Will you do it? Will you accept that offer."

The PRESIDENT said :—

"You are wandering away from the point and wasting the time of the Council. There is no such proposal before the Council."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I say that the Tribunal that you have given us cannot command the same confidence as the Tribunal which you are displacing. My hon'ble friend has said that in Bombay originally or even now there is no complaint, and that the High Court has said that the Tribunal has done its work in the way which has commanded public confidence. I shall not go into personal questions. The late President of the Tribunal who is now a Judge of the Bombay High Court was a man who was held in great esteem in Bombay. The original idea in Bombay was that this President should be a man of the standing and position of a High Court Judge, whether he belonged to the Civil Service or outside it. I do not know what the President that is going to be given to us will be like, but I may tell my hon'ble friend that since the translation of this gentleman from the Board to the High Court, the same amount of confidence is no longer reposed in this Tribunal at Bombay. These are the considerations which I seek to place before the Council.

"My hon'ble friend has not answered the arguments that I raised as to what is the comparative inconvenience of the Tribunal as it at present exists. He has referred me to a finding of the Building Commission. I will not accuse him of reading only a part of the report for the purpose of his argument, but I must say that he has overlooked what the Commission were relying upon—

> "The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of Prem Chand Baral and another, *versus* the Collector of Calcutta, I. L. R., 2 Calcutta 103."

"So long as that interpretation remains, so long as the Land Acquisition Act is not amended, so as to negative that interpretation of the late Chief Justice Sir Richard Garth, your Tribunal will not protect you against these extravagant prices, for, if your Tribunal decided against that interpretation, there is a sure right of appeal to the High Court, for it will then have to decide a question of law; so that the object with which you want to go to this Tribunal, namely, to go behind the ruling of the High Court and not to rectify the procedure of the Tribunals, as they stand, your object in seeking to go behind it, will not be attained. Well, the only advantage that you seek to attain being unattainable, why is it that you want to force this Tribunal upon us? We do not seek it, and we have shown the dangers with which such a Tribunal would threaten the Courts of Justice in this country."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"As I have got a similar amendment, may I have the right of reply?"

[*The President.*]

The PRESIDENT said :—

"I understood you had given it up in the Hon'ble Babu Bhupendra Nath Basu's favour. You cannot reply now."

A division was then taken, with the following result :—

Ayes 15.	*Noes 31.*
The Hon'ble Babu Bhupendra Nath Basu	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
	The Hon'ble Rai Kisori Lal Goswami Bahadur
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Mr. R. T. Greer, C.S.I.
	The Hon'ble Mr. D. J. Macpherson, C.I.E.
	The Hon'ble Mr. E. W. Collin.
	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.
	The Hon'ble Mr. E. P. Chapman.
	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. H. Wheeler, C.I.E.
	The Hon'ble Mr. B. K. Finnimore.
	The Hon'ble Mr. S. L. Maddox.
	The Hon'ble Mr. B. C. Mitra.
The Hon'ble Mr. J. G. Apcar	The Hon'ble Mr. G. W. Kuehler.
	The Hon'ble Mr. L. F. Morshead.
	The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr. Golam Hossein Casim Ariff	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
	The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Dr. Abdullah-al Mamun Suhrawardy.	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. C. F. Payne.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Kumar Sheo Nandan Prasad Singh
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Lt.-Col. Grant Gordon.
	The Hon'ble Mr. Norman McLeod.
The Hon'ble Babu Mahendra Nath Ray.	The Hon'ble Mr. F. H. Stewart.
	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Babu Bal Krishna Sahay.	The Hon'ble Mr. T. R. Filgate.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Hussain Khan.
The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan abstained from voting.

[*Rai Sheo Shankar Sahay Bahadur; Mr. Bompas; the President; Babu Bhupendra Nath Basu.*]

The result of the division was ayes 13, noes 31, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn.

310. The Hon'ble Babu Bhupendra Nath Basu to move that clause 61B (*now 70*) be omitted.

311A The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 61B (*now 70*) be omitted.

312. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that after the figures "1894" in line 4 of clause 61B (*now 70*), the following be inserted, namely:—

and for the purposes referred to in section 56J (*now 64*) of this Act.

He said:—

"This is a formal amendment, though in my humble opinion very necessary.

"The 'Tribunal' is defined in clause (*1*) of section 2 as meaning 'the Tribunal constituted under clause 62 *now 72*).'

By clause 61B (*now 70*), the purpose for which the Tribunal is constituted *is limited* to the performance of the functions of the Court in reference to the acquisition of land under the Land Acquisition Act

"The question is whether this Tribunal will have jurisdiction to decide matters referred to in clause 56J (*now 64*) which are not under the Land Acquisition Act, but which refers to compensation for loss or damage such as payable to a person in consequence of closing any street causing any inconvenience. This Tribunal has also power to decide the questions referred to in sub-clause (*b*) (*i*) and sub-clause (*b*) (*ii*) of clause 56J (*now 64*), namely, whether or not the closing of streets, etc., will cause damage or whether the access provided for under clause 54 (*now 55*) is reasonable or sufficient.

"These are matters which are beyond the scope of the Land Acquisition Act and beyond the powers of a 'Court' referred to in that Act. Therefore if clause 61B (*now 70*) stands as drafted, 'the Tribunal' referred to in the definition and referred to in clause 62 (*now 72*) shall have no power in my opinion to act under clause 56J (*now 64*)."

The Hon'ble MR. BOMPAS said:—

"I think that the Hon'ble Member knows that we are legislating for Calcutta, and not for Bihar or any other place, and clause 61B (*now 70*) will apply to Calcutta only and apply for the purposes referred to in clause 56J (*now 64*)."

The motion was then put and lost.

The PRESIDENT said:—

"I think we should now go back to amendment No. 297."

Clause 56H (now 63), new sub-clause (8), and clause 56J (now 64).

297. The Hon'ble Babu Bhupendra Nath Basu moved that after clause 56H (*now 63*) (7) the following be added, namely:—

(*8*) In case of any dispute as to the amount of compensation payable under this section, the same shall be determined by the Court of Small Causes of Calcutta.

He said:—

"Sir,—I want to add to this clause a new sub-clause. There is a provision in this clause enabling the Board to deal with houses which fall on projected public streets, and I have suggested that where there is a dispute as to the amount of compensation payable under this clause, the same shall be determined by the Court of Small Causes. Does my friend accept this amendment?"

The Hon'ble MR. BOMPAS said :—

"No. It is really an amendment to the next clause, which provides that these disputes shall be decided by the Tribunal."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I do not press this amendment, Sir, but I thought that it was a simpler method."

The motion was then, by leave of the President, withdrawn.

Clause 56J (now 64).

The following motion was, by leave of the President, withdrawn :—

298. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 56J (*now 64*) be omitted.

Clause 56J (now 64) (1).

299. The Hon'ble Babu Bhupendra Nath Basu moved that the words "either by the person claiming compensation or by the Board" be inserted before the words "within a period of three months", in line 2 of the paragraph following immediately after sub-clause (*c*) in clause 56J (*1*) [*now 64 (1)*].

He said :—

"Does my friend accept this amendment? It is only a verbal alteration."

The Hon'ble MR. BOMPAS said :—

"If the Hon'ble Member will put it that the words 'either by the Board or by the claimant' be inserted before the words 'within a period of three months' in line 2 of the paragraph following immediately after sub-clause (*c*) in clause 56J (*now 64*) (*1*), I will accept the amendment."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir, I accept the change and move the amendment as altered."

The motion was then put in the altered form and agreed to.

The following motions were, by leave of the President, withdrawn :—

300. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "by either party" be inserted before the words "within a period of three months", in line 2 of the paragraph following immediately after sub clause (*c*) in clause 56J (*now 64 (1)*).

301. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move—

(*1*) that the words "the matter shall be referred by the Board to the Tribunal within three months from" be substituted for the words "the matter shall be determined by the Tribunal, if referred to it within a period of three months from", in the paragraph following immediately after sub-clause (*c*) in clause 56J (*now 64*) (*1*), and

(*2*) that for the words "and the determination of the Tribunal shall be final" at the end of clause 56J (*now 64*) (*1*), the following be substituted, namely :—

> and the matter shall be determined by the Tribunal, and such determination shall be open to appeal to the High Court.

302. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and the determination of the Tribunal shall be final," at the end of clause 56J (*now 64 (1)*), be omitted.

He said :—

"Sir, I take it that this amendment will be governed by what fell from the Hon'ble Mr. Bompas, as to motions relating to appeals being out of order.

If we are to have appeals of the kind that has been indicated, even these words will have to go for the present; because we cannot say that the decision shall be final and at the same time have appeal provisions elsewhere. Therefore, whatever the appeal provisions may be, these words will have to go for the present."

The Hon'ble Mr. Bompas said:—

"I do not quite accept that view of the case, Sir. The words 'and the determination of the Tribunal shall be final' need not necessarily have any reference to the existence of an appeal. If the Hon'ble Member will look at clause 61C (*d*) (*now 71*) he will find that the words appear there also. These words were not in the original Bill as introduced in Council, and were inserted on the express advice of the High Court. The words exist in the Bombay Act and they have no reference to an appeal. The words 'shall be final' are necessary to prevent the finding of the Tribunal being called in question by a Civil Court. The Hon'ble Judges of the High Court advised us to insert these words, and every one will agree that the Tribunal should have this power and that it is extremely undesirable to have its decisions called in question in, say, a Munsiff's Court. The question of appeal is dealt with otherwise and not under this clause."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir, in this amendment I agree with the Hon'ble Member in charge. These words 'the determination of the Tribunal' were included on the recommendation of the High Court to prevent these decisions being appealed against, but not from being raised in a Civil Court. If that view is accepted, it deals with a much simpler matter, and I think that it might be left as it is. I also think that the Tribunal ought to be trusted and their decision ought to be taken as final."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"Sir, in view of what has been said I do not wish to press this."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

302A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and the determination of the Tribunal shall be final", at the end of clause 56J (*now 64*) (*1*), be omitted.

302B. The Hon'ble Babu Hrishikesh Laha to move that the words "and the determination of the Tribunal shall be final", at the end of clause 56J (*now 64*) (*1*), and the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), be omitted.

302C. If Motion No. 302A be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that, after the words "and the determination of the Tribunal shall be final", at the end of clause 56J (*now 64*) (*1*), the following be inserted, namely:—

> "in all cases where the difference between the amount claimed and the amount awarded does not exceed one thousand rupees, but in all other cases the determination of the Tribunal shall be open to appeal to the High Court."

Clause 56J (now 64) (3).

303. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "clause (*c*) of" be inserted before the words "sub-section (*1*)", in line 2 of clause 56J (*now 64*) (*3*).

He said:—

"Sir, I have had an opportunity of discussing this amendment with the Hon'ble the Vice-President of the Council, and in view of his explanation I do not wish to press this motion."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

305. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 56J (*now 64*) (*3*) and clause 61C (*now 71*. (*c*) be placed after clause 66 (*now 76*), and be re-numbered accordingly.

Clause 61C (now 71).

312A. The Hon'ble Babu Bhupendra Nath Basu to move that clause 61C (*now 71*) be omitted.

313. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 61C (*now 71*) be omitted.

314. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "this Act and the said Land Acquisition Act, 1894," be substituted for the words "acquiring land under the said Act for the Board" in lines 1 and 2 of clause 61C (*now 71*).

315. The Hon'ble Babu Bhupendra Nath Basu to move that the words "(except for the purposes of section 54 of that Act)", in clause 61C (*now 71*) (*a*), be omitted.

316. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "(except for the purposes of section 54 of that Act)", in clause 61C (*now 71*) (*a*), be omitted.

317. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "(except for the purposes of section 54 of that Act)", in clause 61C (*now 71*) (*a*), be omitted.

318. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause 61C (*now 71*) (*b*) be omitted.

The Hon'ble Mr. Bompas said:—

"With regard to this and some similar amendments, it would be very much more convenient if we take them up when we discuss the Schedule in detail."

The Hon'ble Rai Sita Nath Ray Bahadur said:—

"I prefer it to be postponed till we come to the discussion of the Schedule."

The discussion of the motion was then postponed.

The following motions were, by leave of the President, withdrawn:—

319. If Motion No. 312A be not carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), be omitted.

320. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "and shall be final", at the end of clause 61C (*now 71*) *d*), be omitted.

321. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), be omitted.

321A. If Motion No. 313 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "and shall be final" at the end of clause 61C (*now 71*) (*d*), be omitted.

322. The Hon'ble Babu Bhupendra Nath Basu moved that the words "subject to the provisions of the Land Acquisition Act, 1894," be inserted before the words "shall be final" at the end of clause 61C (*now 71*) (*d*).

He said:—

"Sir, in withdrawing this amendment, I wish to make myself clear that we do not consent to this:—'and shall be final' except so far as proceedings may not be brought up in another Civil Court. But for the purposes of appeal which, my friend says, may be conferred upon us by the Supreme Government, it may not be said that we accept this. We want to safeguard against that assumption."

The motion was then, by leave of the President, withdrawn.

The President ruled the following motions to be out of order, on the ground that it is *ultra vires* of the Bengal Legislative Council to confer jurisdiction on the High Court :—

323. If Motions Nos. 316 and 320 be not carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that for the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), the following be substituted, namely :—

(*2*) In any case in which the President of the Tribunal grants a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award of the Tribunal.

(*3*) Subject to the provisions of sub-section (*2*), the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under that sub section; and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes of Calcutta, be executed by him as if they were decrees made by himself.

(*4*) An appeal to the High Court under sub-section (*2*) shall, for the purposes of No. 156 of the first schedule to the Indian Limitation Act, 1908, be deemed to be an appeal under the Code of Civil Procedure, 1908, in a case not provided for by Nos. 151 and 153 of that schedule.

(*5*) In cases in which a certificate has been refused by the President under sub-section (*2*), the High Court may grant special leave to appeal.

324. If Motions Nos. 313 and 321A be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), the following be substituted, namely :—

"and shall be liable to appeal when the sum involved amounts to or exceeds two thousand rupees."

325. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud din to move that for the words "and shall be final", at the end of clause 61C (*now 71*) (*d*), the following be substituted, namely :—

and such award shall be subject to appeal to the High Court, and, if no appeal is preferred, shall become final on the expiration of the period allowed for appeal.

326. The Hon'ble Babu Hrishikesh Laha to move that at the end of clause 61C (*now 71*) the following be added, namely :—

Provided that an appeal shall lie to the High Court from the award or any part of the award of the Tribunal in any proceedings under the said Land Acquisition Act,—

(*i*) whenever the amount of the award is not less than five thousand rupees,

(*ii*) whenever the right or interest acquired does not admit of any money-value, and

(*iii*) in every case referred to in section 100 of the Code of Civil Procedure, 1908.

Clause 62 (now 72).

The following motions were, by leave of the President, withdrawn :—

326A. The Hon'ble Babu Bhupendra Nath Basu to move that clause 62 (*now 72* be omited.

327. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 62 (*now 72*) be omitted.

328. The Hon'ble Babu Deba Prasad Sarbadhikari moved that for clause 62 *now 72* the following be substituted, namely :—

62 (*1*) The Tribunal shall consist of two members, one of whom shall be a barrister, advocate or pleader of not less than ten years' standing who has practised in the Calcutta High Court for not less than five years, and the other shall be either a member of the

served as District Judge or held judicial office not inferior to that of a Subordinate Judge, or a barrister, advocate or pleader of not less than ten years' standing who has practised as an advocate or pleader in the Calcutta High Court.

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section 9, disqualified for appointment as a Trustee.

(*2*) The senior member of the Tribunal shall be its President

(*3*) The term of office of each member of the Tribunal shall be two years; but any member shall, subject to the proviso to sub-section (*1*), be eligible for re-appointment at the end of that term.

(*4*) The Local Government may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, cancel the appointment of any person as a member of the Tribunal.

(*5*) When any person ceases for any reason to be a member of the Tribunal, or when any member is temporarily absent in consequence of illness or any other unavoidable cause, the Local Government shall forthwith appoint a fit person to be a member in his place

(*6*) All appointments made under this section shall be published by notification.

He said:—

"The object of this amendment, Sir, is to have as compact and workable a Tribunal as possible, eliminating the assessor element, objections to which I set out at some length in a previous portion of the debate and which I do not wish to repeat. The assessor element which was found to be a failure, will be a failure again; and if a prompt and workable Tribunal is the objective of this Act, the proposal that I venture to make, whether an appeal is allowed or not, would meet the requirements of the case. So far as the expert element is concerned, they will come before the Tribunal in the shape of witnesses. It is not necessary for a member of the Court itself to be an expert in engineering or in sanitary matters, but expert opinion ought to be adjudged upon judicially. The experts themselves would be constitutionally and instinctively incapable of this, for they have their own groove out of which the true judge has often to take them out. Of course nobody would go in the first instance to the Court for adjudging whether the Victoria Memorial, to which the Hon'ble Mr. Bompas has referred by way of illustration, is a safe structure or not But if it was a question between the Trustees and the contractors with regard to any of the matters appertaining to that colossal but ill-conceived monument, when the question of paying the contractors came up, one would have to go to the Court, and the evidence of the expert would have to be taken. I hope such a contingency will not arise—but if it does, no special expert Tribunal will deal with it but the order of the High Court, devoid of any expert element, would have to be binding on all concerned. All the branches of law are said to be represented in the constitution of the Court, as I suggest it ought to be, and the only objectionable element, the experts, will be done away with, and they would be relegated to their proper places as witnesses. There is no question of majority governing the situation. Two Judges form High Court Appellate Benches, and even in original special matters, for example, when an important case is being tried, a Bench of two Judges is constituted. In that view of things the Bench of two Judges, such as my amendment provides for, would be acceptable and the objection from my point of view would be eliminated.

The Hon'ble MR. BOMPAS said:—

"Sir, I oppose this amendment, because the Tribunal, to the creation of which this Council has just assented, is not the Tribunal created by this draft clause. This Tribunal is not going to be an expert Tribunal. If we retain clause 61B, as we have decided to do, it is not worth while to debate further on this subject. The whole advantage of our Tribunal is that it is an expert Tribunal. And I am not going to discuss the advantages of an expert Tribunal once again. Sir Lawrence Jenkins, the present Chief Justice of Bengal, held that the strength of the Bombay Tribunal lay in the fact that on it sat two expert land-valuers. What authority would be possessed by a Tribunal composed of lawyers only? It will be seen from the Hon'ble

[*Babu Deba Prasad Sarbadhikari; Rai Sheo Shankar Sahay Bahadur; Mr. Bompas.*

Member's amendment 329 that no appeal shall lie against the concurrent decision of the two members of the Tribunal. I think that there is no precedent for making the decision of two judges sitting together final This is not the kind of Tribunal which has been approved by the Council."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I have not indicated, Sir, that they should necessarily be junior officers. It is the minimum qualification that is provided in this amendment, but if it is adopted, I have no doubt that the best available men would be appointed. If we have a Tribunal of the kind I suggest, the question of appeal would be of comparatively less importance than it would it be under the system of assessors who may go wrong on many questions outside the absolute question of valuation. For that reason I ask that a Tribunal like this should be accepted."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

329. If Motion No 328 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the following sub-clause be inserted at the end of the new clause 62 there proposed namely:—

(7) In case of difference of opinion between the members of the Tribunal, the decision of the senior member of the Tribunal shall prevail, and an appeal shall lie against it to the High Court. In all other cases the decision of the Tribunal shall be final.

330. If Motion No. 328 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that all consequential amendments be made in the clauses in the Bill preceding and following clause 62 (*now 72*).

331. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "vakil" be substituted for the word "pleader," in lines 1 and 3 of clause 62 (*now 72*) (*1*) (*b*).

332. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that the words "for not less than seven years" be inserted after the word "practised," in line 2 of clause 62 (*now 72*) (*1*) (*b*).

He said:—

"Sir, I beg to move that the words 'for not less than seven years' be inserted after the word 'practised' in line 2 of clause 62 (*now 72*) (*1*) (*b*). In the clause as it stands, no mention has been made of the period for which a barrister, advocate or pleader should have practised as such in the High Court before he is eligible for the appointment of President. It may be that any pleader or barrister or advocate of ten years' standing who has practised for an infinitely short period in the High Court could claim to be appointed as President. But that is not desirable; he should at least have practised in the High Court for a period of seven years."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment, Sir, on the ground that it will unduly restrict the selection of Government in appointing suitable officers for this purpose. There is no such restriction in the Bombay Act. It may be difficult, with such restrictions, to appoint a man who is thought fit to hold such a post."

The motion was then put and lost.

333. The Hon'ble Babu Deba Prasad Sarbadhikari moved that for the words "the President of the Tribunal and one of the assessors shall be appointed by the Local Government," in lines 1 and 2 of clause 62 (*now 72*) (*3*), the following be substituted, namely:—

The President of the Tribunal shall be appoited by the Local Government, and one of the assessors shall be appointed by the person whose property is to be acquired.

[*Mr. Bompas ; Mr. Apcar ; Babu Bhupendra Nath Basu.*]

He said :—

"Sir, in this amendment I seek to have one of the assessors appointed by e party concerned whose property is to be taken up There are three terests concerned—the Government, the Corporation and the parties. The overnment interest would be safeguarded by the President, who is a nominee the Government. The Corporation assessor will safeguard the interest of e Corporation; and there is clearly and distinctly a third interest, that of the rty, and that is nowhere provided for. Under the Land Acquisition Act of 70 he had such a right. Previous to that his rights were larger. But these ghts were curtailed in 1870 and were limited to an assessor nominated by mself who used to be associated with the Assessor of the Government to sist the Judges and take part in the trial. If we are to have the assessor inciple adopted, it ought to be adopted as a whole, and the predominating rty ought not to have two-thirds of the representation on that Tribunal and e party most vitally interested ought not to be left altogether out of nsideration. I dilated on this matter at some length in connection with the evious amendment, and therefore have no desire to repeat those arguments."

The Hon'ble Mr. Bompas said:—

"I suppose, Sir, that the Hon'ble Member is scarcely serious in moving is amendment The system of assessors being nominated by parties has solutely broken down, as I have explained to the Council a little while ago. is necessary that the constituted members of the Tribunal should be above spicion and absolutely impartial. They will be appointed for a term of ars, and they should in no way resemble the system of assessors for the termination of any particular case, which system broke down in this untry and was despatched without a tear from anybody. The expert embers of the Tribunal are called in the Bill 'assessors,' but their position entirely different from the assessors nominated by the parties who were t impartial and who considered themselves to be in duty bound to protect e interest of the party they represented. I explained this morning that our ibunal is not only going to be composed of experts, but of men who will also absolutely impartial."

The Hon'ble Mr. Apcar said :—

"Sir, I would not have intervened except for an observation by the on'ble Member in charge who said that the system of assessors had broken wn throughout India. Certainly there was objection taken to it in Bengal, d it is because of objections taken to the system of assessors by members the Bengal Chamber of Commerce that the proposal was brought forward change the Tribunal as it then existed. In Bombay it did not break down; ey were quite content with it, and it is because they were content that ey made no objection to the present constitution of the Tribunal when it was oposed with reference to their Bombay Improvement Act. I have made is statement because I have felt that I should not remain silent in view of at has been said."

The Hon'ble Mr. Bompas said :—

"I do not think Bombay asked for the system of assessors to be retained ien the Land Acquisition Act was under amendment.

The Hon'ble Babu Bhupendra Nath Basu said :—

"Sir, I am sorry that in this motion I cannot associate myself with my end, Babu Deba Prasad Sarbadhikari, with whom I have been in agreement roughout. Well, I opposed the Tribunal, and I still oppose it. But that position has now gone. If we have to get a Tribunal, let it be the best and the ost impartial Tribunal that we can have—a Tribunal which will secure the nfidence of all parties. If it is going to be a Tribunal of experts, as I hope it ll be—though I oppose it on other grounds, unless you can get men who ll exercise their functions irrespective of any consideration of the parties

before them, you cannot have a Tribunal of qualified, independent and impartial experts. The only ground upon which any suspicion could be cast is this; but I do not think it is much. In the first place, we have for the President a member of the Indian Civil Service or a member of the Bar. Whatever may be the shortcomings of the Civil Service, nobody will accuse a judicial officer belonging to that service of partiality, and as in this case he is not deciding a case between the Government and the people, but between the Trust and the people concerned, he is absolutely independent of any bias either as a Government servant or in any other capacity. Then the assessor whom the Government appoints has also nothing to do with the Trust or with the people. All that we are concerned to see is this, that he should be a duly qualified man and a man against whose integrity or honesty not the slightest reproach can be uttered. If that is done, we trust that the President and the assessor appointed by the Government will be absolutely independent men. The next man is the assessor appointed by the Corporation. Though the Corporation has got heavy financial responsibility for the success of this Trust, it does not pay to the claimant the amount of his compensation, which is paid by the Board. When it is found that the Corporation is not directly interested, and I think it may be safely left to the Corporation to send the man there on behalf of the Corporation who will be able to protect and safeguard the interests of the people. In Bombay I have found that the Corporation representative is a man in whom not only the Corporation and the people, but the Government also, place the greatest reliance and confidence. It is difficult, I know, to get a man of that stamp every day. If, on the other hand, my friend accepts this, I may say that I myself felt that it was a suggestion which could not be properly placed at one time in the Select Committee. If we have a change of Court in every case, that would prevent an expert body being created, and it would also throw some amount of want of confidence on the decisions of the Board. For these reasons, I think that the more independent we can make the Tribunal the better for us; for after all we cannot get away from this Tribunal—it has been thrust upon us. Since it has been thrust upon us, let it be as independent and impartial and command as much confidence as possible, so far as the people are concerned. The only difficulty to my mind, and that difficulty my friend also observes, is this, that the Government is so largely interested and represented on the Board that it would be difficult for the Government to disassociate itself, and one of the assessors being a Government nominee may feel himself under some obligation to Government in arriving at his awards. I hope the remuneration of the assessor, his position and qualifications will be such that such an imputation may not be made; and I am quite sure that the Government will take care to make its intentions distinctly understood that, so far as this Tribunal is concerned, Government does not wish to influence or interfere with its judgments in any way. This, I am quite sure, will be made clear; and that being clear and the Tribunal being such as it is, the best form of a Tribunal would be to have three men absolutely independent either of one side or the other."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I regret, Sir, that I cannot share the sorrow of my friend to the left that he is unable to agree with me. If there is occasion for me to disagree with him, I shall as freely disagree with him as I have disagreed with other friends. But I regret that I should have been charged with want of seriousness. I thought we were taking ourselves a little too seriously. To us, who are neglecting our health and our every-day avocations, in our attempts to do the best we can for bettering this Bill, it does cause some regret, if we are seriously told that our observations are lacking in seriousness. I deny, Sir, that the assessor system broke down because of the assessor being nominated by the claimant concerned. It would be impossible for the one single assessor to contribute so vastly to the breakdown to that system unless there are other contributory causes. The other assessor and the Judge concerned must have contributed very largely to that failure. When in full view of that you are

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu.*]

seeking to bring back the old assessor system, you are deliberately riding for a fall, and it is our place to warn you. And you seek to insure your own individual safety by shutting out the claim. It will not be a Tribunal of three Judges appointed by the Government, to which the observations of objection that I am now addressing, would not apply. The Hon'ble Babu Bhupendra Nath Basu has started an objection on the ground of inconvenience because of the likelihood of the want of continuity of the Court if individual assessors of the parties instead of standing assessors were to form the Court. Was that ever an objection or difficulty under the older and the now condemned system of Assessors in Land Acquisition cases? And what happens to the Criminal Courts? The presiding Judge and differing Juries in the different cases try criminal cases. Do they suffer for lack of continuity? The same would be the case here, and the new assessor, about whom we have no right to imagine black and dark things, would bring fresh light on the situation which ought to be a help to the Tribunal under proper conditions and an education to the standing members of the Tribunal. I am seriously pressing this on the attention of the Council. A little humour may sometimes contribute to lessen the tediousness of the hour, but these are far too serious questions to have genesis in humour as the Hon'ble Mr. Bompas gratuitiously imagines. The professional expert will have opportunities of taking his colleagues into his confidence. Their interchange of ideas will help to a better understanding of things. Why should we imagine that a designing and partial assessor will always be the real difficulty. The breakdown of the assessor system could not have been due merely to the assessor of the party concerned. In that view of things, and as well as in view of what I have urged in regard to the Jury system, I do not see that it would be difficult to have reliable expert opinion on behalf of the party. The monopoly of experts need not necessarily be with the Corporation or Government. My friend to the left has said that the matter is not between the Government and the people concerned, but between the Trust and the people. Taking it at that, there is no reason why the Government assessor should come in, as the President is there already. So far as the Corporation is concerned, it has very heavy financial responsibility, and its object legitimately and properly would be to keep down the costs as low as possible because they have vital interests. The only person, as vitally interested, is the party who is not to be represented. If you are sitting on the Court because of your vital interest there is no reason why the claimant should be kept out of Court."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

331. If Motion No. 327 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that for clause 62 (*now 72*) (*3*) the following be substituted, namely:—

(*3*) The President of the Tribunal shall be appointed by the Local Government and one of the assessors shall be appointed by the Corporation and the other by the claimant.

335. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "to be" be substituted for the words "for appointment as", in line 1 of the proviso to clause 62 (*now 72*) (*3*).

336. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "the President" be substituted for the words "each Member" in line 1 of clause 62 (*now 72*) (*4*).

337. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "at the end of that term", at the end of clause 62 (*now 72*) 4 be omitted.

338. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "remove any" be substituted for the words "cancel the appointment of any person as a", in line 3 of clause 62 (*now 72*) (*5*).

Clause 63 (now 73).

338A. The Hon'ble Babu Bhupendra Nath Basu; moved that clause 63 (*now 73*) be omitted.

He said:—

"My amendment was originally framed because we had objected to the Tribunal altogether, but there is another matter. Would it be better to fix the remuneration of the members of the Tribunal on a definite scale, so that the public would have some confidence that these members would be capable and independent men? We would like to know the standing and the remuneration of the members of the Tribunal."

The Hon'ble MR. BOMPAS said:—

"It was difficult to incorporate in the Bill any definite provision as to the remuneration of the members of the Tribunal. A great deal will depend on the amount of work which the Tribunal has to do and on the frequency of its sittings. In Bombay it only sits once a week. A fee for a weekly sitting would be different from the fee for a daily sitting."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I withdraw my amendment."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

338B. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 63 (*now 73*) be omitted.

338C. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 63 (*now 73*) be omitted.

Clause 64 (now 74).

338D. The Hon'ble Babu Bhupendra Nath Basu to move that clause 64 (*now 74*) be omitted.

338E. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 64 (*now 74*) be omitted.

338F. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 64 (*now 74*) be omitted.

Clause 65 (now 75).

338G. The Hon'ble Babu Bhupendra Nath Basu to move that clause 65 (*now 75*) be omitted.

338H. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 65 (*now 75*) be omitted.

338I. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 65 (*now 75*) be omitted.

Clause 66 (now 76).

339. The Hon'ble Mr. Apcar moved that the words "High Court" be substituted for the words "Local Government", in line 2 of clause 66 (*now 76*) (*1*).

He said:—

"Sir, I think it would be more appropriate that the High Court should sanction the rules which are not repugnant to the Code of Civil Procedure than that the Local Government should undertake such work. For this reason I move the amendment."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment, because, if passed, it will impose a duty on the High Court which we have no power to impose."

[Babu Bhupendra Nath Basu; Mr. Bompas; Mr. Apcar; Babu Deba Prasad Sarbadhikari.]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, would my friend accept a modification of it 'in consultation with the High Court'?"

The Hon'ble MR. BOMPAS said:—

"They will not agree to consult with the President of the Tribunal."

The motion was then put and lost.

340. The Hon'ble Mr. Apcar moved that clause 66 (*now 76*) be omitted.

The Hon'ble MR. APCAR said:—

"I prefer, Sir, that it be omitted altogether."

The Hon'ble MR. BOMPAS said:—

"I think it is obviously desirable that the President of the Tribunal should have power to make rules for the conduct of the business of the Tribunal, and these rules should be published by notification for the information of the public."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

341. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 66 (*now 76*) be omitted.

341A. The Hon'ble Babu Bhupendra Nath Basu to move that clause 66 (*now 76*) be omitted.

341B. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 66 (*now 76*) be omitted.

342. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "after previous publication and" be inserted after the word "time" in line 2 of clause 66 (*now 76*) (*i*).

He said:—

"I move this amendment in order that the general public may have an opportunity of making any representation that may be desirable on the rules that may be framed by the Board for sanction of the Government. I believe such words would not have been necessary under other conditions, because under the General Clauses Act, where the framing of rules like those is contemplated, previous publication would be necessary. I am not sure, Sir, that the General Clauses Act would have any application to cases like these; if I am in error with regard to that I do not wish to press this amendment. Should I, however, be right, I think the ordinary protection and safeguard of previous publication ought to be provided for in the Statute, so that the people concerned may have an opportunity of knowing what the rules are going to be and of making their representations with regard to them."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment, Sir, because I do not see what purpose a previous publication will serve. I do not see that any such publication is necessary. Rules which are to affect men going about their ordinary business, it is very desirable, should be published before they are enforced. But with our rules there will be no such consideration, and they will deal with matters far too technical in nature for the ordinary public to take an interest in. There is no precedent in the Bombay Act, too."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"We had some very startling propositions made, Sir, in this Council from the beginning of the debate, and this is not the least startling of them. I was going to say that it is the most startling, because it is laid down that the

ordinary man in the street need not know anything about the technical details as to how the tribunal should work under the proposed rules. Who can be more interested in these rules than the so-called 'ordinary man in the street,' which I take it is the Hon'ble Mr. Bompas' way of calling the condemned owner. I could have understood his saying all this about the rules for the guidance of the Board which is to carry on its work in secrecy. But it is "prodigious" to deny the claims of the man in the street to know about what is going to govern him and his claims. To borrow my friend's own language a few minutes ago, I ask whether he is "serious" in laying down this for the acceptance of the Council or any legislature. If what he contends was correct, no Bill need be published that governs the conduct of our courts, because the man in the street need not know what is going to govern his rights. In fact according to dictum like this he need not know very much more of laws or rules than what side of the road he is to keep when walking. For all laws and rules, however pertinent to him and his, are always a highly technical matter. Yet unfortunately for some legislatures these things are published and criticisms have to be listened to. I think that the General Clauses Act governs the situation, but it is considered doubtful; that is pre-eminently the reason why the amendment ought to be adopted. I had hoped that the Hon'ble Member in charge would have had the good sense to have accepted it."

A division was then taken, with the following result :—

Ayes 10.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apear.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

Noes 30.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Moulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The Hon'ble Babu Mahendra Nath Ray.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Saiyid Wasi Ahmed.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Hussain Khan.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. Dip Narayan Singh.

The following Members abstained from voting:—

The Hon'ble Rai Baikuntha Nath Sen Bahadur.
The Hon'ble Babu Bal Krishna Sahay.

The result of the division was—ayes 10, noes 30, and the motion was therefore lost.

The following motions were, by leave of the President, withdrawn:—

Clause 67 (now 77).

342A. The Hon'ble Babu Bhupendra Nath Basu to move that clause 67 (*now 77*) be omitted.

342B. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 67 (*now 77*) be omitted.

342C. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 67 (*now 77*) be omitted.

343. If Motion No. 3.8 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 67 (*now 77*) (*1*) (*a*) and (*c*) be omitted.

344. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "or the apportionment of compensation" be inserted after the word "allowed", in line 3 of clause 67 (*now 77*) (*1*) (*a*).

He said:—

"The decision of the question of the apportionment of compensation, as to how compensation is to be divided amongst the different claimants, often requires technical knowledge—knowledge of engineering; and, as one of the assessors, I understand, is to be an engineer, it is in my opinion necessary that the question of apportionment should be decided by all the members of the tribunal, and not by the President alone."

The Hon'ble Mr. Bompas said:—

"I do not think that this amendment will meet with the approval of the Council. The legal Members of the Council will bear me out that the question of apportionment directly gives rise to the most complicated questions of law, such as are involved in any ordinary title suit. These legal questions of apportionment will be decided by the President sitting alone, and there will be an appeal against his decision in the ordinary course. The assessors are only experts in regard to valuation of land, and it is only in regard to questions of valuation of land that the opinion of the Tribunal as a whole is recognised as a final authority. In Bombay there is a present

[*Babu Deba Prasad Sarbadhikari; Mr. Bompas; Babu Mahendra Nath Ray.*]

no provision empowering the President to decide these legal questions by himself. The assessors have therefore to attend at every sitting of the Tribunal, though actually they take no part in the discussion or decision of such matters. This of course involves a pure waste of public money."

The motion was then put and lost.

345. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 67 (*now 77*) (*1*) (*b*) be omitted.

He said:—

"Sir,—I beg to move this amendment because this is a matter that comes strictly within the purview of the expert tribunal. No doubt, as questions of mere valuation are not concerned, the absence of assessors is to be condoned, if I may so call it, in going on with the question. But important questions may often arise in connection with titles or shares, and it may be the duty of the Civil Court to adjudicate upon the different titles that may be set up by the parties concerned. It is desirable therefore that this encroachment, at all events, on the jurisdiction of the Civil Court should be avoided. This will not affect the Trust or the Board in any way. If people have to litigate with regard to their own shares in the compensation, they ought to be allowed to do so elsewhere. This tribunal, which is less than a Court and more than a Court, ought not to be allowed to adjudicate on the titles of differing shareholders."

The Hon'ble MR. BOMPAS said:—

"We have got an expert Tribunal to make a proper valuation of the land, but the question often arises, who is entitled to receive the money to be paid by the Trust? Under sub-clause (*b*) this question is to be decided by the lawyer member of the Tribunal, who will be the President, and against whose decision there will be an appeal as against the decision of any judge. I oppose this amendment."

The Hon'ble BABU MAHENDRA NATH RAY said:—

"Under clause 61B (*now 70*) we have constituted the Tribunal which shall perform all the functions of the Court in reference to the Land Acquisition Act, and one of the functions which the Court under the Land Acquisition Act has to do is not only to determine the compensation to be paid, but also to apportion the compensation. Therefore the only result of omitting clause 67 (*1*) (*b*) *now 77*, would be that all questions of apportionment and questions to whom the compensation is to be paid would have to be decided by the President with the help of the assessors, which is certainly not desirable as the Hon'ble Member in charge of the Bill has pointed out, and I cannot support the amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir—It may not always be a question of law purely; facts will also arise, but I do not wish to have the assessors for that particular purpose there, and the clause, as it stands, ruthlessly excludes them. But I fail to see where the ordinary remedies of appeal come in with regard to the decision of cases of title."

The Hon'ble MR. BOMPAS said:—

"I have explained this morning that if the President sitting alone decides a question, there will be an appeal to the High Court."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir—I do not quite acknowledge that this is perfectly satisfactory—this division of the Tribunal into compartments to suit the passing needs of the hour,—but I do not wish to press my amendment."

The motion was then, by leave of the President, withdrawn.

[*Mr. Apcar.*]

The following motions were, by leave of the President, withdrawn:—

346. If Motion No. 344 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "or the apportionment of compensation", in clause 67 (*now 77*) (*1*) (*b*), be omitted.

347. The Hon'ble Babu Debi Prasad Sarbadhikari to move that the words "or the High Court, as the case may be, having regard to the amount of the award or payment" be inserted after the word "Calcutta", in line 3 of clause 67 (*now 77*) (*7*).

New Clause 67AA.

348. The Hon'ble Mr. Apcar moved that after clause 67 (*now 77*) the following be inserted, namely:—

67AA. The Board shall not purchase or acquire, in pursuance of section 60 or section 61A, fifteen or more dwellings in any area in the Calcutta Municipality which, three months previous to the publication of the notice referred to in section 42, were occupied, either wholly or partially, by persons whose income does not exceed an average of fifty rupees *per mensem*, or by the families of such persons residing with them, whether as owners, tenants or occupiers, unless the Local Government has sanctioned a scheme for providing new dwellings for such a number of persons as were residing in such dwellings at the said time, or for such other number of persons as the Local Government may, after inquiry, deem necessary.

Restriction on acquisition.

He said:—

"Your Honour—In all proposals for the sanitary reform of cities, one of the cardinal principles is to remove over-crowding, and the Government of India, in an early stage of the consideration of the subject, expressed the fear that there was a risk that the measures contemplated for Calcutta might result in creating the very evil which it was intended to remove. Sir, my amendment is submitted as a contribution, with the object of coping with difficulties that are anticipated. But I observe that it is labelled in the *agenda* as a 'Restriction on Acquisition.' I certainly have no such idea. The clause I move for adoption may be numbered as it may please the authorities, but I wish it to be understood that it is not intended to affect, and does not affect, acquisition. It might be said to be a 'Restriction on displacement of working classes', as repeatedly appears in the earlier London and Manchester Improvement Acts from which my amendment is taken; or better still, in the term now adopted in the Housing Act of 1890, as 'Requisites of improvement scheme as to accommodation of working classes.' I hope that the description given against my amendment will not give a colour to it and predispose any Hon'ble Member, on that account, to reject it.

"Re-housing of persons of the poorer classes, who have been dishoused, is admittedly a necessity, and so we have it in England, local authorities are made responsible for re-housing. The London County Council must re-house half of the working classes ejected: and in an improvement scheme elsewhere—in an area out of London—the local authority must provide for so many persons of the working classes as the Local Government Board may require, on a report made by their officer who conducted the local inquiry. The superior classes are left to look after themselves.

"Previous clauses of the Bill provide for construction, but construction only, and then all discretion is to devolve on the Board.

"The question in England is treated as one of the highest importance. In London, the County Council is controlled by express terms of the law; for areas outside London, the Local Government Board, which is an expert department of Parliamentary Government, may be said to have assumed control. The Government of India in their despatch of 1907, from which I already have quoted; has appreciated the importance of this question in the significant warning conveyed of the risk that precisely the same congestion and the same

conditions may recur, as the improvement scheme is designed to remove, and, in a telling phrase, that the working classes prefer to 'huddle together' in their insanitary lodgings in the neighbourhood of their old lodgings.

"There will be demolition and reconstruction on a large scale. And where over-crowding is present, as we may assume will be the case in the opinion of the Board, it will occasion great complexity because dishousing of occupiers of the poorer classes will necessarily follow also on a large scale. In such circumstances, it will not be fair or just to the public to leave the Board to conduct their operation practically uncontrolled. It will require, to be of any avail, systematic procedure and control. We cannot ignore the experience that has been gained and the practice that has been developed in England. If the same proceeding is followed, as should be done, before the Board exercise their legal powers, the extent of the accommodation available in the neighbourhood of the area in question should be ascertained and a register prepared. The size, earnings, and occupation of the families of the poorer classes resident in the area to be dealt with should be essential points for inquiry. All this is done effectively and tactfully in England. It should be possible to do equally well in Calcutta If, as we must presume will be the case, dishousing of the poorer classes will be numerous, it will be a question whether all will be treated simultaneously. In all these I submit and in many other questions involved, a firm and consistent supervision by the authority of the Government is a necessity and should be given.

"My amendment is taken from several Improvement Acts applying to such great Corporations as the London County Council and Manchester. But I have reduced by nearly one-half the income of persons for whom provision should be made, and the provision will be for so many only as the Government will direct. The amendment will not imperatively impose any construction on the Board: and if any construction is needed, it will be imposed to such an extent only as the Government will think fit. But above all, and in this I attach the greatest value, it will assure us active interest and supervision in re-housing the poorest classes, on the part of the Government. And, here again, I offer the Hon'ble Member in charge an opportunity of commenting on my desire—a strange desire he seems to think—of Government supervision. I submit that it will not meet requirements to leave all discretion to the Board. I submit that, in the public interest, it is necessary that the Government should assume control, and be well informed and vigilant, and exercise an independent discretion on a question of such vital importance as the re-housing of the poorer classes. And that the Government will exercise their functions should be made clear by a declaration to that effect in the law. It is only the inevitable corollary to the responsibility of introducing a measure of the character of this Bill."

The Hon'ble MR. BOMPAS said:—

"I almost regret to oppose the amendment moved by the Hon'ble Mr. Apcar. Because we must all recognise that he, of all the non-official members of the Council, has devoted serious study not only to this Bill, but to the whole subject, and more particularly to the subject as developed in England. His suggestions, though I have often resisted them, have been deserving of the most serious consideration, and I have generally resisted them on the ground that we have in other ways secured the object which he sought to attain, and here I have the same reason for resisting this amendment.

"It is quite true that it is useless to attempt to remove over-crowding and congestion by merely pulling down houses that are built too closely together. The people are merely driven elsewhere and cause greater over-crowding in the locality to which they remove. In English legislation it is often laid down that accommodation must be provided for every person who is evicted in the course of carrying out a public work. The Hon'ble Member in this amendment very wisely does not go so far as that. He leaves to the Local Government to decide what number of persons should be re-housed. But if the Hon'ble Member will look at clause 50A (*now 52*), which

provides for re-housing schemes, he will find that the Board has power to take up re-housing schemes for the accommodation of people likely to be displaced before it undertakes an improvement scheme. Clause 46 (*now 47*) (*b*) which we have passed provides that the Board in submitting an improvement scheme to Government shall state what arrangements have been made or are proposed for the re-housing of persons likely to be displaced by the execution of the scheme. This definitely implies that Government will consider whether the arrangements or proposed arrangements are sufficient and satisfactory and if, in its opinion they are unsatisfactory, it will not approve of the scheme. It seems to me therefore that all that the Hon'ble Member aims at is already secured. A hard-and-fast law that everyone who is displaced must be re-housed would not be suitable to Calcutta. People belonging to different religions, castes and races would certainly never agree to go and take up their quarters in buildings constructed by or under the orders of the Board for their accommodation. When these people are removed, they will select their new residences generally with the object of living near people of the same community or of the same occupation. I consider that the amendment of the Hon'ble Member is not necessary."

The Hon'ble MR. APCAR said:—

"Sir,—I am reminded that, when the Hon'ble Member speaks of these provisions being made in clause 50A (*now 52*) for re-housing, nothing but tha bare power to construct for the poorer classes is re-served. But is that power to be exercised? I cannot understand the Hon'ble Member when he says that my amendment is either too definite or it does not go far enough, as it leaves this practically to the discretion of Government. Why should there be objection to such matter being left to the discretion of the Government? It is my turn to comment on what the Hon'ble Member says on the subject of Government intervention. He apparently thinks that it ought not to be left to the discretion of the Government. At every turn we have indications that the Government will stand aloof, and the Board will be free from any control. Well, I think, on my part, that it should be left to the Government. Where application for sanction to acquire is made to the Government, then the Hon'ble Member says that if the duty of considering this question be left to the Government, it would be imposing an inquisitorial inquiry. But will not the Board inquire? How can they provide for re-housing unless they do? As to proceedings being to a certain extent inquisitorial it is unavoidable. There are inquisitorial inquiries, as the Hon'ble Member very well knows, now proceeding in regard to houses in Calcutta, and it is an inquiry that is regularly pursued in England. How are you going to construct houses unless you know for how many you are to provide, and the size of their families? I would prefer that power should be reserved to construct houses for a certain class of persons, who, in fact, have been actually displaced We have no indication how this power is going to be exercised and to what extent. It may be found that ordinarily, as the new houses will be of a superior character to those from which people will be evicted, it will be persons of a superior class who will take up their quarters in the new houses. I think that due consideration should be given to all these matters. Here we have no indication given of the steps to be taken, and unless there is this provision as a protection against overcrowding small though it be, I fear that the remedy that we are adopting may prove to be worse than the disease, as the Government themselves saved."

The motion was then put and lost.

Clause 67A (now 78) (1).

The following motion was, by leave of the President, withdrawn:—

349. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "in excess of that" be substituted for the words "which is not", in line 4 of clause 67A (*now 78*) (1).

[*Babu Bhupendra Nath Basu ; Mr. Bompas ; Babu Deba Prasad Sarbadhikari.*]

350. The Hon'ble Baba Bhupendra Nath Basu moved that the words "may retain the land" be substituted for the words "may make an application to the Board, requesting that the acquisition of the land should be abandoned", in lines 5 to 7 of clause 67A (*now 78*) (1).

He said :—

"The amendment that I now seek to put before the Council is, in one sense, an amendment affecting the draft only, for my friends are agreed that the clause, as drafted, does seek to carry out what I desire to secure by the words that I suggest. I will explain to my friends what the clause is, and what I want to secure. This clause gives parties liberty to retain the land which is not actually required for this scheme. There are schemes in which we provide firstly for the actual execution of the scheme, and then we provide for areas which are not actually required, but which we have got to take up either for the execution or by way of recoupment, and, in these cases, we desire that the parties affected may be at liberty to retain the land. We are all at one, the Government side and ourselves, that, when land is not actually required, it may be retained by the party upon payment of a sum to the Board. What that sum will be is a matter for consideration. For the purpose of this clause the sum is fixed by the Board. It is admitted that the party may retain, but the language of the clause is rather vague, and, if I may say so, it is not put so clearly. It says that, 'in any case in which the Local Government has sanctioned the acquisition of land in any area which is not required for the execution of the scheme, the owner of the land may apply to the Board for the retention of the land by paying a sum to be fixed by the Board.' So, if you take it positively, the Board shall be bound to admit such obligation, if these conditions are complied with. This clause is borrowed from our Municipal Act, section 357. There we have got the words 'may retain.' I am reading the proviso to clause (2):—'provided that, in any case in which it is decided to acquire any land under this sub-section, the owner of such land may retain it by paying to the Corporation an annual sum to be fixed by the General Committee, in their behalf, or a lump sum to be fixed by the General Committee not being less than twenty-five times such annual sum.'

"I am aware that the framers of this clause also desired this, but there is no provision in the law which confers upon him the express desire of being able to retain. You get it by a very roundabout way. I respectfully submit for the consideration of Your Honour and the Council that this is not sufficient. Let us say so in express words. Let us say that, in any case where the land is not required and if the owner does want to retain it, he must go through certain formalities, he must get all these co sharers, and he must apply within a particular time. I think that it is a very reasonable proposal that I have made ; it carries out what you aim at, and at the same time it gives a distinct privilege and right which does not appear in this clause, but does appear in the section from which you have borrowed this clause."

The Hon'ble MR. BOMPAS said :—

"If I accept this, it will upset the subsequent sub-clauses. It will be more acceptable in the form of motion No. 358. I would suggest postponing this motion till we come to motion 358."

The further consideration of the motion was then postponed.

351. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "Tribunal" be substituted for the word "Board", in the last line of clause 67A (*now 78*) (*1*).

He said:—

"Sir—The object of this amendment is to give the assessment to the assessing body, and that is the Tribunal instead of the Board adjudicating upon what would be paid to the party. It ought to be the Tribunal. I am of course aware that it will add to the work of the Tribunal, but it will so much lessen the work of the Board and as the Tribunal is the better body for the purpose

of assessment, it would perhaps be convenient to have the assessment by the Tribunal itself. With regard to the action of the Board, there will be no check or appeal. For that reason, I move this amendment."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I beg to support this amendment. I wish to put forward the grounds upon which I support this, so that my friends opposite may have an opportunity of replying to them. My friend knows that though it is not in essence the betterment principle adopted in the English Acts, it is on the same lines as in England. When an improvement is made and lands are improved, which are not actually taken up by the improvement scheme, there is a provision under which these lands are retained by the owners, but upon certain terms. The terms are that the party retaining pay an assessment of 3 per cent. upon half the value of the enhancement. The enhancement means the value at the time of the improvement and the value when the assessment is imposed—3 per cent. upon half the value. I will not trouble you by reading this section, but if I am incorrect, my friends opposite will no doubt correct me. This enhancement is assessed not by the local body concerned, and naturally, because it is a matter between the local body and the owner.

"Thus an independent person makes the valuation. If the party fails to apply, the Act affords a further protection that it will not be done by the local Council. Then the local body has to apply as to what should be the value and as to how the thing should be done. There is no suggestion that the Board will not deal fairly, but I think that it is an accepted principle that in a matter in which you are concerned principally, and the Board would be an individual for this purpose, it is always better, when you cannot agree, to leave the question to be decided by a third party. Here we have provided a Tribunal upon which my friend has great confidence and upon which I hope, notwithstanding what I have said this morning, we shall learn to place confidence, and, therefore, I think it is just and fair, where you cannot agree to the value of the land to be retained, it should be decided by the Tribunal. I do not know how the value of the land is to be decided here. It is a valuable privilege that you are conferring upon the people, that they should be allowed to retain the land which is not actually required. My friends, both European and Indian, are aware of the strength of feeling which we attach to our ancestral dwellings, and what we are anxious about is this that the Trust will have to deal with a large number of Indian families with whose sentiments it may not be familiar. Perhaps you do not know the strength of this great feeling amongst us that makes us stick to our ancestral dwellings at whatever cost it may be; and therefore you should carry out your improvement scheme in such a way that people may save their ancestral houses. They will strain every nerve to do it and I do not think, having regard to this intense feeling for the retention of their homes, that they should be placed at the mercy of the opposite side, because the opposite side will be fixing a value knowing the great tenacity of the people to their ancestral dwellings. It is just and fair that that valuation should be made by an independent person when you disagree. If you agree, there is an end to the whole thing. I think it is fair that my friend opposite ought to accept that now we have provided for a tribunal, the Tribunal shall decide. It stands to reason that poor people will not go to a tribunal. I am quite sure, so long as the Board is presided over by my friend, he will so deal with matters that people will not be driven for protection outside the Board, but at the same time it is desirable to provide a safeguard. If we do not agree, what better safeguard is there than that this Tribunal should decide. I place these suggestions and these arguments before my friends opposite, hoping that they will realise the situation. I am afraid they cannot realise it, because the condition of things amongst which they live is so different—the practical helplessness of our people in regard to their ancestral homes. Therefore, in matters like these, where one party is practically at the mercy of the other, an independent third person should be called in, and now that a third person (Tribunal) is handy, in whom both of us trust, he should decide the case."

[*Mr. Bompas; Babu Debi Prasad Sarbadhikari.*]

The Hon'ble MR. BOMPAS said:—

"I cannot hold out any hopes of my accepting this amendment, or the principle embodied in it. This is a clause which gave us a great deal of trouble in the Select Committee, and some members of that Committee felt very strongly on the subject, and I am sorry I do not see here the Hon'ble Babu Hrishikesh Laha who had a great deal to say about this clause in the Select Committee. There is, I think, some misapprehension as to the scope and meaning of this clause, and I will ask the Council to bear with me for a few minutes while I explain what it is we intend to do and what it is we do not intend to do.

"Unless I am compelled, I would not be enticed into a discussion of the principle of betterment raised by the Hon'ble Babu Bhupendra Nath Basu, because the principle of betterment is not incorporated in this Bill and has never been advocated during any of the previous discussions. There are, so far as I know, three possible methods by which a body or a local authority, carrying out improvements, may expect some return from the land which is benefited by its improvements. One is the betterment system which, after a prolonged fight, has been more or less adopted in England, and which has there proved more or less a failure. Under that system you impose a rate calculated on the rise in value of the land benefited by your improvement. No one has suggested that that principle should be applied in Calcutta. There is another system which at one time was advocated by Sir Herbert Risley in connection with this Bill. And that is the system under which you impose a rate on the frontages abutting on the land acquired, not calculated upon the extent of the benefit derived by that land but calculated on the cost which you have incurred in making improvements. That system was strongly advocated, but was finally abandoned in deference to public opinion in Calcutta. Most of the associations consulted objected to it, and finally the Secretary of State thought that it shou'd be dropped. We are then left with the principle of recoupment, which is a system always enforced in Calcutta and to which the people are accustomed, and which in principle has been accepted by everybody who has spoken in Council on this subject. The Bill provides that we can take up excess land, the increased value of which is entirely due to the capital which we have expended in making the road. Then we can re-sell it. This is a system which is extensively followed by the Calcutta Corporation. But it is quite possible that, instead of buying or acquiring this land and selling it when it has risen in value, we may shorten that complicated process by coming to an arrangement with the actual owner. It will be seen in clause 68 (*now 81*) of the Bill that when the Board comes to dispose of the land we are giving the right of pre-emption to the former owner. If we are going through the process of acquiring land and keeping it for several years, and then re-selling it, when the price has gone up, to the former owner, the question arises whether the same object cannot be attained by a short cut. This clause is intended to give the Board the power to make an arrangement with the previous owner who, for the payment of a certain sum, can retain his land. It will be purely a matter of bargain between the Trust and the owner as to what the latter has to pay in order that the land may not be acquired. This is a process which is sure to have the approval of the land-owners. For, it must be remembered that, in many cases the owner of the land is anxious to avoid acquisition, and the Board on its part is anxious to avoid the expense and risk and locking up of capital involved in making acquisitions. The whole of this complicated clause is to regulate negotiations between the Board and the owner. Of course the owner has a right to say that somebody must judge between them. But that is not the question here. Here we merely say that we may negotiate with the owner and abstain from acquiring a land which he is anxious to retain. So if this amendment is accepted, it will upset the whole of the procedure under this clause."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I am afraid, Sir, that it would have been better to let the consideration of this matter stand over till we realised as to how much in the way of right

[*Mr. Bompas ; Babu Deba Prasad Sarbadhikari.*]

would be conceded by the re-wording of the clause. When that particular matter stood over, I understood my friend to recommend that a right as such was to be conceded. Some such intention was the reason of letting this matter stand over."

The Hon'ble MR. BOMPAS said :—

"It is a right to negotiate terms of agreement with the Board."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Of course, if there is to be no right and it is to be merely a matter of bargain, there would be much force in what my friend has just stated. But I am reminded that it should hardly be a matter of bargain, and it was in that view of things, I understand, that the re-wording of the clause stands over. The Hon'ble Member in charge is morbidly anxious to avoid entering into a discussion of the question of betterment in spite of the alluring enticement of the Hon'ble gentleman to my left who has been constantly referring to it, because it is really the basis of all that we are attempting here. Whatever name you give it, it strikes me, what is really advocated here is a sort of *benamee* betterment, if I may so call it. The absolute principle of recoupment, which was to be adopted in this Bill, found place in paragraph 17 of the Governor-General's Despatch to the Secretary of State, which was the basis of this legislation, and there, as my friend reminds us, the Prussian system was given the go-bye to and the orthodox recoupment system, which has found place in the Bombay Act and the Municipal Act, was finally adhered to. But what he has stated just now goes a step further and makes us think that it is really betterment *benamee*, that we are now having. Be that as it may; unless it is to be an absolutely downright bargain, there would be an advantage in the constituted assessors of the Trust having the last word to say as to what would be the right and proper amount for letting the owner retain his land. In this connection, Sir, I may read to the Council a very short extract from that letter, in which we are told—

'We agree with the Lieutenant-Governor that the method of recoupment adopted in section 15 of the Prussian Street Alignment Law (Fluchtliniengesetz) of 1875 should be retained as an alternative to the methods of selling or leasing surplus lands which may have been acquired during the progress of the improvement scheme. Exception has been taken by several of the local bodies consulted to the adoption of the Prussian method, but the objections they have made appear to us to be based to a large extent, on a misapprehension of what is proposed. The Bengal National Chamber of Commerce, for example, is under the impression that at least half the cost of constructing a new road is to be recovered directly from the frontage owners, and refers to the inability of house-owners to pay huge lump sums on this account. But the Prussian Law which it is proposed to adopt fixes half the cost on frontage owners, and it is not proposed that this maximum should be exceeded in Calcutta. Also the amount to be recovered would be converted into an annual charge to be spread over as long a term of years as might be convenient. The system would have the special advantage that it would not lead to the dispossession of any save the persons whose property was actually required for the construction of new road or open spaces, and that it would avoid the opposition which the acquisition of surplus land and the dispossession of owners has aroused in the past and must inevitably arouse among people who, like the Hindus, are greatly attached to residential houses on sites on which their families have lived for generations. All that we propose at present is that provision shall be made in the Improvement Trust Act for this method as an alternative to that with which the people of Calcutta are already familiar. The method would not be adopted in any particular case without careful consideration.'

"Can we say, Sir, having regard to that letter, that something very closely resembling a right of retention is not to be given to the public? The principle of bargaining would remind one of the old *chauth* days, when the strong man appears on the scene and says—well, how much are you going to pay me in order to be allowed to retain your property? Here is a constituted body; they know exactly what to make of the situation, and you are going to let them come to an arrangement between you and the owner as to what is right and proper figure to pay, so that he (the owner) may help in the realization of the scheme and yet be able to retain his property without any undue stress and strain. That is the whole object of my amendment. I had thought, Sir, that

a tribunal that enjoys so much of the confidence of the Trust would not be objected to in making an apportionment of the kind that would be necessary before the owners were allowed to retain their property."

A division was then taken, with the following result:—

Ayes 14.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr Golam Hossein Cassim Ariff

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Babu Bal Krishna Sahay.

Noes 25.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Küchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Lt.-Col. Grant-Gordon.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The following Members were absent:—

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Saiyid Wasi Ahmed.

The Hon'ble Babu Hrishikesh Laha

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Hussain Khan.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Mr. Dip Narayan Singh.

The result of the division was—ayes 14, noes 25, and the motion was therefore lost.

[*Mr. Apcar.*]

352. The Hon'ble Mr. Apcar moved that the word "Collector" be substituted for the word "Board," in the last line of clause 67A *(now 78) (1)*.

He said:—

"Sir, I have been studying this clause more critically than before within the last few days, and I am puzzled to understand how it will be worked. I must confess that I am still more puzzled after the explanation that has been given by the Hon'ble Member in charge. I understand that this clause is based on section 357 of the Municipal Act, and under the impression that it was intended to be worked on the basis of betterment, that is to say, when there is a charge made for improvement, it is to be calculated according to the benefit to be derived from the improvement. In England, a percentage on half of the benefit by improvement is taken, and by the Corporation it is nominally stated to be two-thirds of the improvement itself, but in effect the whole of it is taken. We are now told that there is to be no question of betterment on the Prussian system or any other system under this Bill, but only of recoupment. I do not know to what degree I should enter into a disquisition on such a question as that. The only question that I now have to submit is with reference to this: whether or not the Board shall decide as to the amount to be paid, or whether the Collector shall decide. I submit that it is much better that there should be an independent and impartial person, because naturally the Board will be interested in this question, and if it is to be regarded as land that has been taken away and is to be purchased by the owner, it means that the Board is placed in an advantageous position, and is really becoming, what is a bugbear to me, judges in their own cause. They will always take a rosy-view estimate of the improvement, and it may be pardoned to the owner if he thinks that he is not meeting with fair and just treatment, if he is to be left at the mercy of the Board. I think, Sir, that, in these circumstances, the Collector should be a party to decide what sum is to be given. But I cannot help proceeding to say—it is difficult to resist going into the ground on which the Hon'ble Member has invited discussion—I have seen no authority in this Bill for acquisition of land for the purpose of profit, because profit is not a purpose of this Act. Here, in this clause, Your Honour will see that it is where the land is not required for the execution of the scheme, that its owner may apply to the Board to retain it: if it is not required for the execution of the scheme, it is a land for the acquisition of which sanction cannot be given under section 61 A, *(now 69)*, and if it is not needed for public purpose, then it cannot be acquired under the Land Acquisition Act. It is the land which is distinctly kept out, as being not required for the execution of the scheme. Then, why is it to be acquired? 'Required' does not mean 'demanded.' That is settled law. Lord Chancellor Selbourne decided that required means not 'demanded' but 'necessary.' If you say that it is not required, you say that the land is not necessary. There are so many questions involved that I shall not go into them now in an incidental manner. I would not offer any objection to the agreement being arrived voluntarily between the parties. But it is only when an agreement has not been arrived at, we submit that it should not be the Board who should decide what payment is to be made. I have been puzzled from the beginning to understand this clause, and I confess that I have not yet fathomed it; but, any way, if there is any contention as to the value of the property, I submit that the price to be paid should not be fixed by the Board. Your Honour will see in what a dominating position the Board is in this case. A man cannot retain his own land except with the sanction of the Board. There are other obstacles, with regard to all of which the Board are made masters of the situation, and if the owner passes the various ordeals, then an arrangement is to be arrived at by the Board. I cannot conceive on what principle it can be insisted, if there is a dispute, that the Board should be placed in a position to demand an exacting price, and that their decision shall be final. It seems to me unfair, and in these circumstances, and dealing only with the question of whether the Board shall decide or whether the Collector shall decide, I submit, Sir, the Collector should be permitted to decide the question

[*Mr. Bompas; Babu Mahendra Nath Ray; Rai Sita Nath Ray Bahadur; Mr. Payne.*]

of price. I reserve my remarks with regard to the many questions that have been brought up, though I have been tempted to anticipate, in a measure, what I may have later on to say, when a statement has been made with regard to betterment and recoupment".

The Hon'ble MR. BOMPAS said:—

"Sir, I resist this amendment on the same ground that I resisted a similar amendment. In this amendment the word 'Collector' is to be substituted for the 'Board.' I do not think that there is anything in the theory that the Hon'ble Member has just supported, that the Board has no power to acquire land for the purpose of recoupment. The Hon'ble Babu Deba Prasad Sarbadhikari said there is no doubt that the Board has power to acquire land for the purpose of recoupment within an improvement area. I think there is no legal difficulty such as is suggested by the Hon'ble Mr. Apcar. I still adhere to the decision that, as under the Calcutta Municipal Act, so under this Act also, the only possible way to fix a price is by bargaining. The Trust will not want to acquire land unnecessarily. It will not want to lock up its capital. It is not a question merely of buying land and selling it again at an enhanced price. When land is acquired much expenditure is incurred in paying for trade losses, costs of removal and similar claims, for which there is no return by recoupment. These considerations tend to curb the operations of the Board in this direction. I see a further difficulty which will arise if the suggestion is adopted that the Collector is to fix a price for the land that may be retained. Supposing the Trust demands ten thousand rupees and the owner offers two thousand, they may go to the Collector and the Collector may fix the price at five thousand. Is the Collector to have the power of compelling the man to pay five thousand rupees? This would not be fair, for he may prefer to have the land acquired. But if the Collector's award is to have no binding force, then there is no advantage in a reference to him,—for he merely makes an offer which the landowner has power to reject, and that is an offer which the Board is quite capable of making by itself. For this reason, as well as for the others which I have advanced, it seems to me inadvisable to accept this motion."

The Hon'ble BABU MAHENDRA NATH RAY said:—

"Sir, I beg to raise a question asked by some of the previous speakers, which has not yet been answered by the Hon'ble Member in charge of the Bill. Does clause 67A mean this—that subject to certain conditions which are set out in the clause, the Board would be bound to permit the owner to retain the land, or that even when these conditions are fulfilled, the Board have power to consider whether the application for retention should be admitted or not? The clause, as it is now worded or as it is proposed to be worded, perhaps leaves it discretionary with the Board to admit the application or not. It would then be a matter of pure discretion and the position that the Hon'ble Mr. Bompas has taken up would be irresistible. But if the clause confers a right on the owner, the matter would be different."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I want to point out that the provisions of section 357 of the Calcutta Municipal Act makes it obligatory on the part of the General Committee or the Corporation to receive an application from the owner. We have worded the clause so as to allow the owner, fulfilling certain conditions, to retain the land which will not be required for the execution of an improvement scheme, and it was under that impression that we gave notice for the amendment that a reasonable sum should be paid to the owner. But in bargaining with the owner, there is nothing to show as to who is to fix the price. The Board may fix a fancy price. There is nothing in the clause to check it doing so."

The Hon'ble MR. PAYNE said:—

"I think that the question of the right has been a little bit misunderstood. The procedure is entirely based on the authority of the Corporation, only it

has been simply put in a different form, and to my mind, after having had some experience of that procedure in the Corporation, it is a better form. The only real right that the Calcutta Municipal Act gives and the same right as given by this Bill, is that of absolutely requiring the General Committee in the one case—and in this case the Board—to fix a certain fee in return for which they leave the owner to retain the land. It is optional with the owner to retain the land or let it be acquired. In the Corporation we have had a large number of such cases, and we find that the interest of the Committee and the party are identical. The Hon'ble Rai Sita Nath Ray Bahadur has said that the Board may fix a fancy price. But it cannot, as the party is going to reduce it, and the Board must come to his terms or must acquire the land. The question is a simple one and need not have been discussed at this length!"

The Hon'ble Mr. Apcar said:—

"Sir,—I of course have learned that all questions raised are, in the opinion of the Hon'ble Member in charge, simple and can easily be decided against an amendment. But I think we will find difficulties under this clause in practice. The Hon'ble Member (the late Deputy Chairman) is an authority on the subject to which he has now referred, and I acknowledge that, in some details, he has been instrumental in improving this clause; but this clause is not the same in its terms as the section of the Municipal Act to which he has referred. He does not suggest that it is not the system of betterment that is followed in the Corporation Now, we are told that it is recoupment that will be adopted here. I prefer recoupment to betterment. What is recoupment? Where you purchase before improvement is undertaken and you sell after improvement has been made. It is land speculation, but under the principle of recoupment you take a commercial risk: if there is gain, the benefit goes to the Board, that is the public funds; if there is loss, then there is a loss to the public funds. But what is betterment? It is a game of heads I win and tails you lose against the individual owner. You fix a price, in perpetuity, a continuous charge on the land, and it is all gain for the Corporation and loss to the other side; but here, Sir, as we are dealing with this particular clause, permit me to point out when you once say the land is not required you cannot acquire it, because you distinctly put it out of your power to acquire it. You declare that it is not needed for the purpose of the carrying out of your scheme, so that you cannot acquire, and what the Hon'ble Member in charge suggests is that he will hold out to the owner this threat—you either take this sum that we offer or leave it. Leave what? His own land which is not required for the purpose of the scheme and which cannot be acquired. I am only giving what the clause is, and in these circumstances where we have a section without the least indication of any principle as a guide, you will be coming to a conclusion as to the charge to be made without any guidance, depending on any principle. It cannot be recoupment unless you acquire before improvement and sell after, and you take your risk whether of gain or loss. The principle of recoupment, I repeat, cannot be applied under this clause.

I am endeavouring to limit myself to the issue, but it is impossible to do so in view of the discussion that has been proceeding. What I wish to say on this amendment is this—I do not by any means desire to prevent a friendly arrangement. On the other hand it is not fair to put the owner of the land which is not required for any purpose of an improvement scheme in the position that if he does not agree to your own terms you will take the land. It should at least be permitted to the owner to have an impartial person to decide the sum that is to be paid. Here there is nothing to indicate to the wretched owner whose land is threatened when it will not be required. In England, with regard to superfluous lands, the owner has the right to take it back again if, within a certain period stated in the Act, it has not been appropriated for a scheme. There is thus a time-limit fixed. Here no kind of limit is fixed, and he has got nothing to guide him. When the Board steps in and says that I require so much money and you must pay the

amount we have fixed, he has no kind of appeal with regard to the sum that is fixed or with regard to anything else. Therefore, I submit that it is advisable that there should be an impartial person brought in, in order to assist in this matter. With the rest I am not concerned now, but I submit that it would be unfair if the Board, who are masters of the situation and who are concerned on their own behalf, are allowed finally to fix the sum that has to be paid to the owner.

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

353A. The Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "a sum to be fixed by the Board in that behalf", in the last line of clause 67A (*now 78*) (*1*), the following be substituted, namely:—

a reasonable sum fixed by the Board according to its market value.

353B. If motion No. 353A be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "a sum to be fixed by the Board in that behalf", in the last line of clause 67A (*now 78*) (*1*), the following be substituted, namely:—

a sum equal to half the difference between the present value of the land and its prospective value.

355. The Hon'ble Babu Bhupendra Nath Basu moved that at the end of clause 67A (*now 78*) (*1*) the following be added, namely:—

such sum not exceeding half the amount of the increased value (if any) of the land.

He said:—

"Sir, I must frankly confess that when at this late hour of the day I rise to move my amendment, I do so with some degree of trepidation. I scan the faces of my friends behind and opposite. My friends opposite are no doubt supported by the approbation of their conscience in beating us down, and friends behind who have left their business naturally feel that, as amendment after amendment is lost, it is unnecessary to press these amendments. I cannot say that I myself do not share in that view. But at the same time I believe there is some object served in putting our views forward, however briefly, so that I may at least justify my position that the amendments that we have sent in were not sent without due and proper consideration and without some justification. Whether that justification appears to my colleagues to be sufficient or not is a matter for them to decide.

"Sir, this clause with which we are dealing, namely, the recoupment provision, is a very important feature of the whole measure; important in this way—it is important to the Trust for it saves a lot of expense, and important to us poor people because it makes it possible for us to save our ancestral dwellings. This provision essentially affects the poorer classes of the rate-payers and the residential owners of this city. As regards properties which are tenanted houses yielding large rents, there the question of valuation is not difficult; it does not matter whether you take or give up. I shall not repeat the argument that I used in reference to dwelling houses, but, as I said, we are not free agents and therefore we suggested that some independent person should intervene. That has been lost. Now the question arises as to what is the amount that a man has got to pay. My friend the Hon'ble Mr. Bompas says that it is a question of pure bargaining. There ought to be a principle, because so far as there is no principle it is a very unsafe thing to go on. A man who has got sufficient influence probably will save

[*Babu Bhupendra Nath Basu.*]

more than the poor man who has got no friends and no money and cannot secure friends to support him; so that in the interests of that very class, whose interests I always know the Government places before every other interest, I submit that some principle ought to be laid down. But what is the principle upon which you are going to settle with the man who wants to keep his land. As a pure matter of bargaining? Is that fair? I am not a Municipal Commissioner and have not been so for many years, and therefore I do not speak from my own knowledge, except what I hear from many people, that a similar provision of the Municipal Act has not been very widely applied except recently. Even I did not know of it except in connection with a case in the High Court. The Hon'ble Mr Payne will perhaps correct me if I am wrong. There was recently a case in one of the northern quarters of the city in which a gentleman named Babu Satish Chandra Mittor wanted to retain surplus lands. The municipality wanted from him Rs. 1,06,000 for permission to retain those lands. This gentleman went up from Rs. 50,000 to Rs. 75,000, while the municipality did not accept this offer, and I understand ultimately the Land Acquisition Collector awarded him Rs. 1,22,000 for the whole land including compensation, so that the real value of the land itself was a little over one lakh of rupees, and to retain this land which was his own property, by merely paying for betterment, he was required to pay practically its price, the land being his and you claiming the betterment. The above-named gentleman has, I believe, gone to the High Court. Poor men have complained to me, but I have told them that I am not a Municipal Commissioner and cannot intercede on their behalf, as I am quite powerless. We find that they are often made to pay heavily. There ought not to be a feeling of insecurity in the minds of the people. Deal with them fairly and justly upon a principle and they will not complain. You ought to say 'we will take so much,' but do not leave it to chance and to extraneous or outside influences. Wealthy men can often go up to a Court and place you before it to justify your action. Let that not be, and therefore I would ask you to adopt a principle. Well, am I wrong in making that submission that you should adopt a principle and act upon it? If we are agreed upon that proposition, and I believe my friends on the opposite side, who, I was assured yesterday, are quite prepared to vote independently and according to the best of their convictions, being high Government officials, will also agree that it is safest always to have a principle to go on. Well, Sir, the principle being admitted, the question is what ought to be the principle. If we follow a principle, what is the principle that we should adopt. I have suggested that let it be half the improved value. My friend opposite says that I have dragged in the question of betterment which does not find place in the scheme of our present measure. I quite admit that; betterment in the sense in which it is adopted in the English Act does not find place in our Bill, but I was only arguing from analogy. The analogy that I wanted to apply was this. Where they have got betterment, which means the same thing and which has been introduced for the same purpose as we are going to introduce namely, to reduce the cost of acquisition, we find the analogy that in the English Statutes they have adopted a certain principle. I say that unless strong reasons to the contrary are shown we should also adopt that principle. That principle, viz., of half has been invariably adopted through all the Acts that have been passed in England beginning from a very early date. I had made a note of all these Acts, but I cannot unfortunately find it now. If we take for instance the Manchester Corporation Act of 1904, we find in section 22 the same principle applied, viz., half. Then if we see the London Council Improvements Act, 1899, we find in section 61 the same principle adopted. Then, if we see the Tower Bridge Improvement Act, I believe it is an Act of 1897, sections 58 and 59, we find the same principle adopted. Then if we look to the Town Planning Act of 1909, an Act which has the latest say on the subject, there it says:—

> (3) Where, by the making of any town planning scheme, any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme (not being less than three months after the date when notice of the approval of the scheme is first

published in the manner prescribed by regulations made by the Local Government Board, shall be entitled to recover from any person whose property is so increased in value one-half of the amount of that increase.

So I have got a very large body of opinion on my side. I have got first all principle, secondly justice, and thirdly precedent. Precedent not of a single instance but of many instances, precedents not of one town but of many towns, precedent lately and lastly of the Town Planning Act which applies to the whole of England. If they there think it desirable to safeguard the people by laying down a principle, namely, that the betterment claim should not be more than half, why should we in this country place the poor house-owner entirely at the mercy of the Board, however well constituted the Board may be. Supposing I had not the remotest objection to that constitution, even then I would suggest that for the guidance of the Board itself some definite principle was necessary. I have said half; you may say you are entitled to the whole of the value of the increase. Well, if that strikes you as fair, take the whole. But let me know, so that I may not be driven into a corner, as I have said; I am not a free agent, and you say that I am driving a bargain with you. What is your object. Your object is to keep down the costs as much as possible. You are a powerful body composed of official men.

I have placed the case from a humanitarian point of view. There is another object which my friend will admit as very important. As the clause stands it does not confer a legal right upon any individual to retain his land. The language has been as confused as can be, and if we analyse it, I feel no hesitation in speaking in the presence of the Law officers of the Government that we come to the conclusion, at which every Court will arrive, that there is an implied right which can not be taken away. For these reasons I do humbly submit that the amendment, which I propose, namely, that you will take from the owner not any money that you chose but the money fixed upon some principle, that principle being half the value of the enhancement that is brought about by an improvement, is one that should be adopted.

The Hon'ble MR. BOMPAS said:—

"Sir, I am afraid I must make some call on the attention of the Council because reference has been made to the English betterment system, and that is rather a technical matter. I wish members of this Council to clearly understand that the betterment system has not been adopted in framing this Bill, and therefore all references to it are out of place. The Bill has been before the public for a very long time, and, so far as I am aware, no recommendation was ever made that the principle of betterment should be incorporated in the Bill. The Hon'ble Member wishes us to adopt some system that will be favourable to the land-owner whose land is to be taken for recoupment, and urges that we should not place him in a corner. But he is in a corner. The position is that Government has given the Board power to acquire land. And if the owner objects to that acquisition, no alternative which he accepts will be favourable to him. I think that the wording of the Calcutta Municipal Act has given a misleading idea of what that section really effects. When the section begins by saying that the owner may retain the land it looks as if a right to retain it is conferred upon him. But when the section is studied it will be seen that there is no such right and that the only right conferred by the section is the right to negotiate for the retention of the land at a sum to be fixed at its discretion by the General Committee. The wording of the clause as it stands in the Bill seems to me to give a more accurate idea of the rule than the section. The system of recoupment has been deliberately adopted in order that these improvements should be carried out as cheaply as possible, and at the least possible cost to the taxpayer. It is admitted on all hands that in some shape or other the owner of the land that is particularly benefited should contribute to the cost of the work. But if this amendment is adopted, it becomes a pure matter of chance as to how much recoupment is effected for the benefit of the public. If the land is acquired and sold again, the Trust secures the full benefit of the enhanced

value, but under this amendment the owner may claim to pay to the Trust only one-half of the enhanced value. It will always be a matter of chance whether the various persons holding interests in a given piece of land can combine and come to an agreement with the Trust to stay the acquisition, or whether they will fail to do so. Then, again, the amount of recoupment on the whole is left to chance. This, I submit, is not a desirable system. I repeat that I have no doubt that if the Trust is willing to allow any land to be exempted from acquisition, it will be to the interest of the Trust to offer very reasonable terms to the land-owner. The Trust thereby saves the expenses of the acquisition and the locking up of capital. He will also bear in mind that its estimate of the enhanced value is only an estimate and not absolutely to be relied on. I have stated before that the only possible method seems to me to be to allow the parties to arrive at a sum, which is satisfactory to them, by negotiations. I do not think that the law can speak of half the enhanced value of the land when that enhanced value is purely a matter of estimate. The system under which the amount of money to be recovered is settled some time after the improvement has taken effect is, as I have said before, not the system embodied in this Bill, and is not a system which has hitherto been advocated as applicable to Calcutta. It seems to me therefore useless to speak of the enhanced value or half the enhanced value as a fixed and definite sum when it is purely a matter of guess, that is to say, no matter for negotiation."

The Hon'ble Mr. Apcar said :—

"Sir, I am in entire agreement with the principle that, if land is benefited by the action of a public body, the owner should have to pay for any benefit that he derives from the improvement, and it is because I am in sympathy with that principle, that I support my friend's motion, for it seems to me, Sir, that the clause, as it is framed and in view of the declarations the Hon'ble Member has made, it is either the principle which is now offered or the Board will not get anything at all. Certainly, there can be no question of recoupment under this clause, and as to betterment, the principle of it is offered by my Hon'ble friend's amendment. The Hon'ble Member has referred to the action taken by the Corporation, but in the arrangements that are made under section 357 of the Calcutta Municipal Act, in practice it is betterment, pure and simple; it is the benefit that is derived by the improvement that the Corporation take from the owner. And their methods are regarded as being of a very exacting character. If the Hon'ble Member has been depending on the action that has been taken under section 357 of the Municipal Act, as precedents, I would remind him that there has been no case that has been carried to a conclusion in a court of law under that Act that I am aware of, and I warn him that it is dangerous to rely on an action by our Corporation as a precedent here of the character he foreshadows. With regard to betterment, it is always a matter which is dependent on speculation as to the price to be fixed. It depends on the prophetic capacity of the assessor or arbitrator, but there is no principle of betterment defined in the clause. In accepting this amendment, there will at least be some principle introduced. The Hon'ble Member has misconceived the whole question if he thinks that recoupment can be adopted under this clause. The Hon'ble Member himself has recognised that where there has not been any express sanction of betterment, that principle cannot be adopted. Betterment was recognised in 1895, and it was only lately, in 1909, that it was incorporated, for the first time, in an Act of general application. But there have been many local Acts. At the time when a Committee of the House of Lords recognised the principle of betterment, the Acts of 1895, to which my Hon'ble friend has referred, the London County Council Act and the Manchester Act, were before Parliament, and the sections, to which my friend has referred, were taken as model sections which have been incorporated over and over again in local Acts, and so far from betterment having been a failure as the Hon'ble Member in charge has assumed, it is remarkable that it should have been adopted in the general Town Planning Act of 1909."

"So that it is nothing new. It is what has been adopted in the Town Planning Act of Mr. John Burns, and I think, Sir, on my part, that it would be advisable if this is accepted."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Sir, I would only say a few words in reply. My friend says that the English system has not been adopted. All that I wanted was to argue by analogy. He says how are we to fix not knowing what time would be allowed? Well, in England also, these are more or less hypothetical questions. If my friend had the will, I am quite sure he would have the way to solve the difficulty, for the English Act makes special provision as to time which is fixed by the scheme, up to the extent of three years. It is between 12 months and 3 years and probably more. I do not ask you to enter into negotiations with these people as soon as you begin operations. You have got an area marked out for acquisition. First of all, you acquire lands required for the carrying out of the scheme. This scheme refers to portions which you do not need. What is there to prevent you from securing them or dealing with them after the improvement has been carried out? So I say, if you have the will you will surely find the requisite way. There, in England, they have got a time limit. You can have a time limit fixed and it does you no injury, because it is not required for the purpose of an improvement immediately. There are excess lands on the border which you may acquire or may not acquire and, therefore, when my friend thinks of that difficulty, I believe he must feel that the force of the difficulty may be easily removed. Then he raises another difficulty that there may be extravagant landlords and long lease-holders. Under our law all the interested holders must combine to apply. If they do not, there they go. They will go under the present law and they will go under the future system that we may adopt. Therefore I do not see what the real difficulty is. My friend has been good enough to say that he would welcome a principle. If he is willing to accept a principle, he has suggested three difficulties. The three difficulties are, first, that the increment is not known; secondly, that no period is fixed; and thirdly, that we must deal with 16 annas shareholders. Well, in the first place, with the law as it is, you won't take from the land the whole value of his land. Supposing a land is worth Rs. 10,000. You will have to pay Rs. 10,000 to acquire that land. I will not speak of incidental expenses. Well, from A you buy the land for Rs. 10,000, and then you calculate how much, after improvement has been effected, you will be able to recover. You think that you will be able to recover Rs. 15,000. Then the difference is Rs. 5,000. You then ask now much of this Rs. 5,000 the party is prepared to pay,—that is your present position. You will take from me if I was the party, something which is a margin of improvement—difference of the present value and the future value. My friend opposite will have to deal with hypothetical claims even under his present scheme. So there is really no difficulty. He may wait, because my property is not immediately required. Then, my friend admits that he would prefer, as much as anybody, that there should be some guiding principle which both parties should follow Now that we have come to this, what I want to ask is, what is the difference between the present value and the hypothetical value, not the whole difference, because I contribute as the owner and you contribute as the carrier of the improvements. I say let it be half—why half, because that has been the standard in your own country, and if it has worked well there, why should it not work well in my country. I do not think that I have made any extravagant claim, nor have I put forward anything which my friend will have to reject, because, after all, it will create confidence in your Board and it will ultimately do much good to the people. I would, therefore, respectfully urge upon official members to let the consideration of this stand over and to think over the suggestions that we have made as to why it should not be adopted, seeing that the principle is the standard in the English Acts. My friend would admit, if he was not the member in charge, that there will be great scope for abuses. I do not mean to say that there will be abuses, but there may be abuses, and why should these not be prevented?"

[*Babu Bhupendra Nath Basu.*]

A division was taken, with the following result :—

Ayes 14.

The Hon'ble Babu Bhupendra Nath Basu

The Hon'ble Rai Sita Nath Ray Bahadur

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apcar.

The Hon'ble Mr. Golam Hossein Cassim Ariff.

The Hon'ble Dr. Abdullah-al Mamun Suhrawardy.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Mr T. R. Filgate.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Babu Bal Krishna Sahay.

Noes 25.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kishori Lal Goswami Bahadur.

The Hon'ble Mr. R T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. Stevenson-Moore.

The Hon'ble Mr. J. H E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. K P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble M. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Nawab Saiyid Muhammad Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Lt.-Col. G. Grant-Gordon, C.I.E.

The Hon'ble Mr Norman McLeod.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Muhammad Zahir-ud-din.

The following Members were absent :—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Babu Hrishikesh Laha.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.
The Hon'ble Babu Braj Kishor Prasad.
The Hon'ble Mr. Dip Narayan Singh.

The following members abstained from voting :—

The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Mr. F. H. Stuart.

The result of the division was—ayes 14, noes 25 and the motion was therefore lost.

[*Babu Bhupendra Nath Basu; Mr. Bompas.*]

356. The Hon'ble Babu Bhupendra Nath Basu moved that at the end of clause 67A (*now 78*) (*1*) the following be added, namely:—

"such sum not exceeding the amount of the increased value (if any) of the land."

He said:—

"Sir, I have now come to my last ditch. I feel that I am bound to be defeated, but I am stepping back step after step. I wanted to have it laid down that it should not exceed *half*. Well, I will go further to ask that it should not exceed the whole of the difference. You may take the whole of the difference, but do it upon a principle. The limitation I seek to place upon you is that you can take the value of the whole of the improvement, to which I have not contributed except by being the holder of the land. In this connection I may read to my friend a passage from the latest report of the London County Council which will show that we are practically building our hopes on sand. About the benefits that we are likely to receive from recoupment they say:—

> In considering the cost of any large public improvement, regard must be had to the fact that usually a considerable sum is obtained by sale of surplus land after the completion of the new street. It has been popularly supposed that the Board might frequently have been in a position to repay the whole or at least a large portion of the cost of an improvement by acquiring more property than was actually needed for constructing a new street or widening an existing thoroughfare, the large valuable sites fronting the improvement being sold upon the completion of the works. Experience proved, however, that the sums realised by the re-sale of property did not equal the amounts paid.

So that we have got the experience of London embodied in its former report, showing the effects of the various improvements, the various big roads, and they say that they have not benefited by the recoupment process, in fact, they have lost, having realised less than they paid for. I am only placing this before the Council in order to show that all that glitters is not gold, and that our imagination may play tricks with us and that experience is after all the best guide. It is a sorry nag, but reliable. Therefore, I say, having regard to the experience of London and also to what my friends have said, that some principle is better. What more can you expect—take the whole prospective valuable improvement. Surely you cannot object to that. I am now offering the price for which I may retain my ancestral house. Take from me the whole of the difference, in case you are determined; but do not take more. Am I wrong or unfair? I hope, Sir, that this will appeal to my hon'ble friend."

The HON'BLE MR. BOMPAS said:—

"I am glad that the Hon'ble Member has moved this amendment, as I wish to make some remarks on his reply to the former amendment. I am glad to do so because very often new points are raised by Members in their reply which I have no opportunity of dealing with, and I am always anxious to explain my position as clearly as possible and to meet any objections that are brought against me. My answer to the case about the Trust anticipating a probable increase in value of five thousand rupees and to the question how much of that five thousand repees I am going to accept, is that I cannot give him half of my estimate because the owner will not accept my estimate. We are dealing with probable increase, and you cannot lay down hard and fast rules about it. Nor could the tribunal or the Collector come to a satisfactory conclusion about probabilities; they can decide on facts and values; their guesses as to the future would not command respect. I do not know very much about business, but I understand that people buy jute in July for delivery in December, both the buyers and sellers agreeing to a price which they think will be the price ruling in December. But it is impossible to lay down any rule which will help them to decide at once the price of jute in December; they must act on their own opinion of the probabilities and stand to lose if their

opinion is wrong. The case of land which it is proposed to acquire under an Improvement scheme is precisely similar.

"The suggestion of the Hon'ble Member that you should decide whether you can come to terms after the work is complete is not practical. You do nothing when the declaration is made that the land should be acquired. You simply say it is wanted for betterment. You wait till the improvement has brought its whole effect, and then you say, 'Now, what about this land which you want to retain.' Probably the man will say, 'I do not want to retain it now.' But who can then decide on the original value of the land, and with what feelings would the owner receive, say, Rs. 1,000 for land worth Rs. 5,000 as it stands. The system in England, which the Hon'ble Member has cited, is different. For one thing land never comes under acquisition there. My objection to this amendment is that everybody is in a position to guess as to what the increased value of the land may be. They must be left to negotiate it between themselves."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir, I will not detain this Council at any length, but I feel it is fruitless. But still arguments should not go unchallenged. My friend, the Hon'ble Member in charge, says that he has no business experience, and that he cannot in the same way forecast, as business people do, the value of jute in December. The fact that the value of jute in December is forecasted shows that men in business know how to form an estimate of the prospective value of a commodity. I should be very sorry if any property rested on the same foundations upon which the quick-silver trade in jute rests. This is only a matter of illustration that serves to prove my case, that people who want to come to terms upon the future value of a commodity can easily do so by looking at the various data which are available to them at the present moment. My friend raises another point as to how are you to decide what was the value at the date of declaration, if the party, after the improvement is carried out, does not seek to retain the land. Such a contingency is not probable, but if it arose, nothing would be easier to determine, for all your neighbouring lands required for the improvement have been paid for on the basis of the price ascertained at the time of the declaration, and that would be the price which the party will get if he does not desire to retain. My friend knows, as he has had to deal with a large number of land acquisition cases, that the value is not of the time of the acquisition, but of the time of the declaration. Consequently, you have got to go back to the declaration. You have got the value at the time of the declaration and you have got the actual value after your improvement. What more do you want? You have got all the materials which will assist you in fixing the value for the retention. Of course, my friend's attitude of resistance I cannot unfortunately overcome."

The motion was then put and lost

Clause 67A (now 78) (2).

The following motions were, by leave of the President, withdrawn:—

357. The Hon'ble Babu Bhupendra Nath Basu to move that for lines 1 to 6 of clause 67A (*now 78*) (*2*) the following be substituted, namely:—

> (*2*) No application for such retention shall be entertained unless it—
>
> (*a*) is made before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, or within such further time as may be allowed by the Board, and

358. The Hon'ble Mr. Apcar to move

(*1*) that the word "may" be substituted for the words "shall not be bound to," in line 1 of clause 67A (*now 78*) (*2*),

(*2*) that the words "does not reach" be substituted for the word "reaches," in line 1 of clause 67A (*now 78*) (*2*) (*a*), and

(*3*) that the word "not" be inserted after the word "is," in line 1 of clause 67A (*now 78*) (*2*) (*b*).

[Babu Deba Prasad Sarbadhikari; Mr. Bompas.]

Clause 67A (now 78) (1).

At this point it was arranged that the further consideration of Motion No. 350 (entered above) should be resumed on Monday, the 21st August, 1911

The following motion was, by leave of the President, withdrawn :—

359. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 67A *(now 78)* (*2*) (*a*) be omitted.

360. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "or assented to" be inserted after the words "is made by," in line 1 of clause 67A *(now 78)* (*2*) (*b*).

He said :—

"Sir, what the clause here makes imperative is that the application must be made by all the persons who have interests in the land. I quite agree with the Hon'ble Member in charge of the Bill that unless the whole of the outstanding interest in the property is before the Trust it would not be possible to deal with the matter satisfactorily. But it may be that in the case of a large undivided family, for example, all the members may not be in a position to accede to the requisition of the Trust—the limitless requisition as it now appears and try to retain the property. But some share-holders may be sentimental enough or foolish enough to try to do this and may secure the consent of others. For that reason I want to provide against the application being altogether incapable of entertainment."

The HON'BLE MR. BOMPAS said :—

"It is merely a question of filing of objections and not of negotiations."

The HON'BLE BABU DEBA PRASAD SARBADHIKARI said :—

"Even the application would be difficult, as people who do not care for purchase or retention will not interest themselves or move in the matter, but it is conceivable that the one person who is anxious may be able to get the consent of the others, who, under other circumstances, would be necessarily outstanding. All that I press for is that if he can secure the consent of those who do not wish to come forward, the application may be entertained, and I think that no harm can be done. Of course, in the larger case where the application is by all parties it would no doubt be preferable to have the application for compensation consented to by all."

The HON'BLE MR. BOMPAS said :—

"I do not think it is at all necessary. I really think it is a very simple matter. If there is an application put in by certain persons and before the expiry of the period of limitation other persons join the first applicant, it seems to me that all their applications are to be complied with. But if only one or two shareholders apply it is waste of time to negotiate with them, on the mere chance that others may join them subsequently. I resist this amendment.

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn :—

361. The Hon'ble Rai Sita Nath Ray Bahadur to move that the words "is made by all or a majority of the persons" be substituted for the words "is made by all persons", in line 1 of clause 67A (*now 78*) (*2*) (*b*).

Clause 67A (now 78) (3).

362. The Hon'ble Babu Bhupendra Nath Basu to move that for the words "If the Board decide to admit any such application, they", in lines 1 and 2 of clause 67A (*now 78*) (*3*), the following be substituted, namely:—

Upon such application being made, the Board

363. The Hon'ble Mr. Apcar to move that the words "decide to", in line 1 of clause 67A (*now 78*) (*3*) be omitted.

In the absence of the mover, the following motion was not put:—

363A. The Hon'ble Rai Sita Nath Ray Bahadur to move that the word "receive" be substituted for the words "decide to admit", in line 1 of clause 67A (*now 78*) (*3*).

The following motions were, by leave of the President, withdrawn.

364. If Motion No. 352 be carried, the Hon'ble Mr. Apcar to move that the words "the Board", in lines 4 and 5 of clause 67A (*now 78*) (*3*), be omitted.

365. If Motion No 351 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "Tribunal" be substituted for the word "Board", in line 5 of clause 67A (*now 78*) (*3*).

366. The Hon'ble Babu Hrishikesh Laha to move that after the word "sum", in line 4 of clause 67A (*now 78*) (*3*), the following be inserted, namely:—

(which shall not exceed one-half of the increase in the value of the property).

In the absence of the mover, the following motion was not put:—

367. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that after the word "sum", in line 4 of clause 67A (*now 78*) (*3*), the following be inserted, namely:—

(not exceeding one-half of the probable increase in the value of the property).

The following motion was, by leave of the President, withdrawn:—

368. The Hon'ble Babu Deba Prasad Sarbadhikari to move that after the word "sum", in line 5 of clause 67A (*now 78*) (*3*), the following be inserted, namely:—

(being not more than half the estimated excess value of the land due to the improvement).

The discussion on the following motion was postponed:—

369. The Hon'ble Babu Bhupendra Nath Basu to move that the words "the land may be retained" be substituted for the words "the acquisition of the land may be abandoned", in the last line of clause 67A (*now 78*) (*3*).

Clause 67A (now 78), new sub-clause (3a).

370. The Hon'ble Babu Bhupendra Nath Basu moved that after clause 67A (*3*) the following be inserted, namely:—

(*3a*) In case of any difference between the owner or other person as aforesaid as to the sum to be paid, the same shall be fixed by the Tribunal on a reference being made to it by him

The Hon'ble Mr. Bompas said:—

"My grounds for objecting to this amendment are the same which I put foward previously against the amendment suggesting an application to the Tribunal."

The motion was then put and lost.

[Babu Deba Prasad Sarbadhikari; Mr. Bompas; Babu Bhupendra Nath Basu.]

The following motion was, by leave of the President, withdrawn:—

371. The Hon'ble Mr. Apcar to move that after sub-clause (*3*) of clause 67A (*now 78*) the following be inserted, namely:—

> (*3a*) If any question or dispute arises as to the sufficiency of any sum fixed under sub-section (*3*), it may be referred to the Tribunal, within a period of one month from the fixing of such sum.

Clause 67A (now 78) (4).

372. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "for forty years" be substituted for the words "in perpetuity", in line 3 of clause 67A (*now 78*) (*4*) (*ii*).

He said:—

"Sir, what is provided in this clause is that the sum, outstanding as a charge on an interest in the land subject to the payment in perpetuity of interest at such rate not less than 4 per cent. per annum as may be fixed by the Board shall be left so outstanding. At that rate the value of land would be what no actuarial calculation would be able to arrive at. We desire to have fixed definitely a certain number of years' purchase for the purpose of determining the value. You are laying it down that the rate of interest shall not be less than 4 per cent., and taking it at that I suggest that if you take that interest for 40 years, more than the value of the land will be covered, making allowance even for the intermediate interest. Payment of that interest in perpetuity would make the land immensely and disproportionately valuable, although, having regard to the sentiments and reasons that have been lengthily dilated upon, people may be obliged to assent to any terms. There ought to be a limit to the demands that will be made upon those who are anxious to retain their property. I, therefore, suggest that the limit of a period of years should be accepted."

The Hon'ble Mr. Bompas said:

"Sir, I resist this amendment. We now come to the payment part of the negotiations. The owner of a piece of land has agreed on a sum with the Board on the payment of which the Board will abandon the acquisition of the land. As a further concession to him the Board may allow that sum to remain outstanding as a charge on the land subject to his paying interest and in perpetuity.

This is simply a concession to the landowner: he may pay cash down: if he can borrow the money in the open market or from a friend on better terms than are offered by the Board, he is at liberty to do so: and he can pay off the Board's charge at any moment. There is nothing compulsory about this: he can accept the Board's terms if, as they probably would be, they were the most favourable that he could obtain.

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir, I believe my friend who has moved this amendment has not sufficiently considered sub-clause (*8*) of clause 67A (*now 78*) which provides that at any time after an agreement has been executed any person may pay off the charge created thereby with interest at the rate specified in the agreement. There is no hardship on the owner as he has the liberty to pay off at any time he likes."

The motion was then put and lost.

373. The Hon'ble Babu Bhupendra Nath Basu moved that the words "not more than" be substituted for the words "not less than", in lines 3 and 4 of clause 67A (*now 78*) (*4*) (*ii*).

[*Mr. Bompas; Babu Bhupendra Nath Basu; Mr. Apcar; Babu Deba Prasad Sarbadhikari.*]

He said:—

"Sir, I hope I shall be able to finish within the space of time allotted and that our mufassil Members will not complain that they have been detained longer, though I can assure them that if we are pushed to a pinch I can stay here the whole night and would like them to do the same.

I now ask the attention of the Council to my amendment particularly. There are two alternatives which this retention clause provides, one is that it allows the owners to pay off what is demanded by the Board, the other is that when a poor house-holder cannot pay off the Board is to fix it as a charge."

The Hon'ble Mr. Bompas said:—

"Will the Hon'ble Member be satisfied if the words 'at the rate of four per cent.' be substituted for the words 'not less than four per cent.' This will also necessitate a consequential amendment in sub-clause (*i*).

His motion would, therefore, run—

(1) that the words 'the rate of' be substituted for the words 'such rate, not less than' in lines 3 and 4 of clause 67A (*now 78*) (*4* (*i*)), and

(2) that the words 'as may be fixed by the Board', in lines 4 and 5 of the same clause, be omitted."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Yes, Sir, I accept that and move the amendment in its altered form.

The motion was put in the altered form and agreed to.

The following motion was, by leave of the President, withdrawn:—

374. If Motion No. 352 be carried, the Hon'ble Mr. Apcar to move that the words "by the Collector" be inserted after the words "so fixed", in line 3 of clause 67A (*now 78*) (*4*).

Clause 67A (now 78) (5).

375. The Hon'ble Babu Bhupendra Nath Basu moved that the words "be deemed to be" be inserted after the word "shall", in the last line of clause 67A (*now 78*) (*5*).

The Hon'ble Mr. Bompas said:—

"I would accept it."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

Clause 67A (now 78) (6).

376. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 67A (*now 78*) (*6*) be omitted.

Clause 67A (now 78) 7.

377. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "the balance of" be inserted before the words "the sum fixed" in line 3 of clause 67A (*now 78* (*7*).

378. If Motion No. 351 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "Tribunal" be substituted for the word "Board" in line 4 of clause 67A (*now 78*, *7*).

379. If Motion No. 377 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "after deducting the amount already received" be substituted for the words "in addition to the said instalment" at the end of clause 67A (*now 78*) (*7*).

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Apcar; Mr. Bompas.*]

Clause 67A (now 78) (8).

380. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "the balance of" be inserted before the words "the charge" in line 3 of clause 67A (*now 78*) (*8*).

Clause 67A (now 78) (9).

381. The Hon'ble Babu Bhupendra Nath Basu moved that clause 67A (*now 78*) (*9*) be omitted.

He said:—

"Sir, I must honestly confess that as such a long time has elapsed, I really forget why I sent notice of this amendment. I would, therefore, withdraw it."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

382. The Hon'ble Mr. Apcar to move that clause 67A (*now 78*) (*9*) be omitted.

383. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 67A (*now 78*) (*9*) be omitted.

He said:—

"Sir, I am not exactly in the position of the Hon'ble Babu Bhupendra Nath Basu. He has forgotten what the meaning of the clause is which he seeks to amend, and I have never understood the object of that sub-clause (*9*). If the Hon'ble Member in charge is good enough to explain the object of this clause, I may be able to see my way to withdraw my amendment."

The HON'BLE MR. BOMPAS said:—

"Sir, the object of the sub-clause is to safeguard the interests of the Board. The Board after satisfying itself enters into agreement with one person. And then another person turns up and says, 'what right have you to enter into this agreement with him? I want the land acquired' To guard against such possibilities we inserted this clause in the Select Committee. It is not desirable that the Board should always be litigating over such things."

The HON'BLE BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I am glad to hear my friend's explanation, but it does not convince me because, having regard to what has preceded, such a contingency as has been referred to by the Hon'ble Member cannot arise unless all the parties affected have been before the Board. This thing can never happen, and I accordingly move my amendment."

The HON'BLE MR. BOMPAS said:—

"I resist it not only for the benefit of the Trust, but also of the people with whom it deals. The Hon'ble Member and his friends are anxious that the fullest advantage should be taken of the provisions of this clause: but to insure this the Board must be put in as strong a position as possible. If the Board is liable to be constantly sued by some aggrieved co-sharer to have these agreements set aside then it will be very shy of entering into such agreements. The sub-clause as it stands will enable fuller use to be made of this procedure for exempting lands from acquisition.

The motion was then put and lost.

The Council was then adjourned to Monday, the 21st August, 1911, at 11 A.M.

CALCUTTA;
The 6th September, 1911.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

B. S. Press—6-13-1911—2425J—600—E. J. H. & others.

Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Monday, the 21st August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C. H. BOMPAS.

The Hon'ble MR. F. L. HALLIDAY, M.V.O., C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MR. H. J. HILARY.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble LT.-COL. G. GRANT-GORDON, O.I.E.

[*Mr. Bompas; the President; Mr. Wheeler.*]

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHIBA SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

THE CALCUTTA IMPROVEMENT BILL, 1911.

Clause 37 (now 38).

217. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that the words "if satisfied as to the truth thereof and as to the sufficiency of their resources" be inserted after the word "and", in line 2 of clause 37 (*now 38*) (*1*).

218. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "if satisfied as to the truth thereof and as to the sufficiency of their resources" be inserted after the word "and", in line 2 of clause 37 (*now 38*) (*1*).

The Hon'ble MR. BOMPAS said:—

"Sir, may I suggest that we go back to the two clauses that have been left over? The first is clause 37 (*now 38*), amendments 217 and 218 (as above). I think the latter was actually moved, and I am prepared to accept it."

The PRESIDENT said:—

"I suppose it was actually moved."

The Hon'ble MR. WHEELER said:—

"Yes, and that covers No. 217."

The motion was then put and agreed to.

[*Babu Bhupendra Nath Basu; Mr. Bompas; the President; Mr. Apcar.*]

Clause 67A (now 78) (1)

350. The Hon'ble Babu Bhupendra Nath Basu moved that the words "may retain the land" be substituted for the words "may make an application to the Board, requesting that the acquisition of the land should be abandoned", in lines 5 to 7 of clause 67A (*now 78*) (*1*).

The Hon'ble MR. BOMPAS said:—

"This amendment also stood over from Saturday. When the Hon'ble Babu Bhupendra Nath Basu was going to move it, I said that motion No. 358 was more desirable in form than motion No. 350. But as I understand that the Hon'ble Mr. Apcar has withdrawn it, I am prepared, with your permission, to move that amendment which is more desirable than the Hon'ble Babu Bhupendra Nath Basu's. This would mean not that the applicant shall have a right to retain his land, but that he shall have a right to have his application considered by the Board. As the clause stands it might be said that the Board was not bound in any way. If that is not the idea of the Hon'ble Member, then I will move this amendment."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, so far as our side is concerned I will only say that we do not consider it as enough, but we will accept what we get."

The PRESIDENT said:—

"It will be necessary in the first instance for the original amendment to be put and lost."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I think it will be better if it is put and lost."

The motion was then put and lost.

Clause 67A (now 78) (2).

The Hon'ble Mr. Bompas, with the permission of the President, moved that the words "The Board shall admit every such application if it" be substituted for the words "The Board shall not be bound to admit any such application unless it" at the beginning of clause 67A (*now 78*) (*2*).

The motion was put and agreed to.

Clause 67 (now 78) (8).

The Hon'ble Mr. Bompas, with the permission of the President, moved that the words "of four per cent. per annum" be substituted for the words "specified in the agreement" in line 4 of clause 67 (*now 78*) (*8*)."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Is that necessary, because 4 per cent. will be specified in the agreement?"

The Hon'ble MR. BOMPAS said:—

"That may be, but there is now no option as to the rate, and it will be less ambiguous to mention the rate."

The motion was then put and agreed to.

Clause 67A (now 78), new sub-clauses (9a), (9b).

384. The Hon'ble Mr. Apcar moved that at the end of clause 67A (*now 78*) the following be added, namely:—

"(*9a*) When an agreement has been executed in pursuance of sub-section (*4*) in respect of any land in an area comprised in an improvement scheme, the owner or lessee of the land may, at any time within the period of three

years from the date of the agreement, send to the Collector written notice stating that substantial and permanent decrease in the value of the land, to an amount specified in the notice, has been caused by the improvement scheme, and that he claims that such alleged decrease shall be considered by the Collector.

(*b*) If the Collector is satisfied that such a decrease has taken place and has been caused by the improvement scheme, such owner or lessee shall be entitled to have the amount of such decrease, as determined by the Collector, deducted from the sum payable by him under the said agreement."

He said :—

"I move, Sir, that, if within a period of three years from the date of agreement, the party with whom the agreement has been made sends to the Collector a written notice stating that substantial and permanent decrease in the value of the land to an amount specified in the notice has been caused by the improvement scheme, and he can satisfy the Collector that a decrease has taken place owing to the improvement scheme, then he shall be entitled to deduct such amount as the Collector may determine, from the sum payable under the agreement made with the Board. Sir, in the very qualified and restricted character of this proposal, I think that I should have some sympathy from the Hon'ble Member in charge. I do not know whether he is going to accept this. Well, Sir, the three years is fixed for this reason. It has been objected that, in the operations of the Calcutta Municipality, an improvement charge is exacted and payment is made before the party concerned has received any benefit from an improvement, and therefore a margin of three years is given under this clause to the person who is interested, and I suggest that, before payment is made, if there has been a change in the conditions of locality, he should not be made to pay the sum that was agreed upon in the belief that a real improvement would be effected. Sir, we cannot expect that every scheme or plan that has been agreed to will be carried out rigidly in its entirety. It may be that for greater convenience, or on account of the cost being less, the curve of a main thoroughfare or the junction of some side street is altered, or even the frontage may be changed. This may make a great difference in the position of the land which is affected by the agreement, and it may result in a material reduction in the value. And if this land has changed hands, there will then be a difference created, because the party who has purchased having purchased in the belief that the land will be benefited as shown in the original scheme; if he suffers damage, he will be able to sue the Board for the difference that has been made. I am not giving this illustration merely as a hypothetical instance: the case has actually occurred, and where there has been a change of frontage, the party who has purchased has been able to recover from the public body concerned heavy damages owing to the difference that was made in the value of the property. Sir, when there is a difference made in the values, or when there is a change made in the conditions under which the agreement has been entered into before the payment is made, surely there is some consideration due, or is the Board really going to exact, when the conditions have become wholly different, the sum that they fixed to be the improvement charge? The Hon'ble Member says that he will not have anything to do with betterment. On two occasions in the House of Lords, the Duke of Argyle said that betterment was an absurd, foreign, and vulgar word. Is it because the Hon'ble Member is a purist in the language that he objects to the word 'betterment' and he says he will not have anything to do with it? Call it, Sir, 'improvement charge' or 'betterment'; it is the same thing, and here under this clause distinctly it is an improvement charge that is intended to be exacted from the person who retains his land, although there is no authority for it in the Bill, and the intention is even disclaimed by the Hon'ble Member in charge. If the value is shown, as I have indicated, not casually asserted, but with specific notice given, to have decreased in value owing to the improvement scheme, and when there is a substantial and real difference, is the Board really going to exact this sum from him? It seems to me that the exactions of the landlord, of which we hear so much, will pale

before the exactions of the Board. When you are able to show that there has been this change, that the man has entered into an agreement with the Board under conditions which have changed, and that he has suffered this difference of price and value of his land, is he not to be allowed any difference at all? When there has been a change in value in perpetuity made, it is unfair to the owner to decrease the capital value of his land, and still not to give him any recompense."

The Hon'ble MR. BOMPAS said:—

"Sir, I said on Saturday that I preferred to oppose the Hon'ble Mr. Apcar's amendments on the ground that the Bill is already so framed as to attain the object he has in view. But I cannot give him that answer to this amendment. In this amendment he wants me to play with him a game of heads-I-win-tails-you-lose But I cannot play it. His idea is that after terms have been settled with an owner and a sum fixed as the sum on which the Board shall abstain from acquiring his land—three years afterwards, the owner shall have a right to appear and claim compensation for any decrease in value of his land. But nothing is said about the Board also having that right to claim any sum for any unforeseen increase in the value of the land after three years. If the Board alters the scheme in view of which an agreement has been made, I have no doubt that the agreement would be voidable. But apart from going into the merits of the case, I would point out to him that his amendment does not attain the object which he seeks; therefore on that ground alone I cannot recommend that it should be added to this Bill. The amendment as it stands only covers the case where the owner and the Board have come to an agreement in view of an increase in the value of the land which both sides anticipate, but in the event the land declines in value instead of rising. Such a case must be so rare as to be scarcely worth legislating for. It is scarcely conceivable that it should occur.

The Hon'ble MR. APCAR said:—

"The Hon'ble Member apparently desires to have a monopoly of the game which he says he will not play with me, namely, heads-I-win-and-tails you-lose. Whenever this game is an improvement charge it is all for the benefit of the Board. But it is different, as I have said, when there is a principle of recoupment, that is, where the Board takes a commercial risk. Here it is all and entirely in favour of the Board, and as for the Hon'ble Member's tenderness on my behalf, if the amendment will not achieve the object I have in view, I will take that risk. Then the Hon'ble Member seems to think that whenever there is an improvement scheme undertaken, it is inevitable that there will be benefit to the locality. If you refer to street schemes in London, certainly up to comparatively a later date, with the exception of one single street scheme, that is the Northumberland Avenue, there was a loss, and even when there was a question of recoupment the London County Council have said:—'It must not be supposed that when there has been an improvement scheme necessarily there will be a benefit.' After all, what is it with regard to which the Hon'ble Member declines to play the game of heads-I-win-and-tails-you-lose? If the Hon'ble Member desires it, it is open to him to offer as a compromise that the Board should also have the advantage of any loss of this character. If the Hon'ble Member desires, it is open to him, and he will be, I understand, in order to move for the insertion of a provision to that effect. With regard to this particular loss which might ensue we should be clear what it is. I do not here refer to the value of the land, because we are only dealing with improvement charge. The improvement charge will be properly assessed, say, at Rs. 20,000. You may find that it is decreased to nothing at all, or it may fall to Rs. 5,000. Here what is put forward is that it must be a substantial change, which must be specified, and the difference is only with reference to the amount of improvement or benefit, and not in the value of the property about which I now suggest an amendment. I submit that my proposal has not really been met, and I ask that it be put to the vote."

The motion was then put and lost.

[*Babu Deba Prasad Sarbadhikari.*]

Clause 67B (now 79).

385. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 67B (*now 79*) be omitted.

He said:—

"I am aware that the clause is based on section 357 of the Municipal Act, and most of its words have been borrowed from the Act. In the first instance the procedure suggested by the clause is that the amount remaining outstanding should be recovered in the manner provided in the Municipal Act for the recovery of consolidated rates. That is ordinarily by distraint. But there are circumstances and cases under which it is necessary to go to the Small Cause Court for the purpose of recovering the amount. Therefore the jurisdiction of the Civil Courts in the matter of the larger or more intricate claims is not ousted. This clause would be without trouble or difficulty applicable, I take it, only with regard to the smaller cases—cases where distraint would possibly be the more effective method. Considering, however, the very large number of cases and the considerably large amounts that will be generally involved, it seems to be open to grave doubt as to whether the machinery of judicial tribunal for the purpose of realizing dues, such as every subject is obliged to go through, should be departed from or not. The Hon'ble Mr. Apcar, in moving the previous amendment, referred to the powers of the Trust being of a kind compared with which the powers of the landlord are very insignificant. No landlord would have the power of judging what the tenant would have to pay him and of taking steps for the recovery of these amounts; he would be debarred from being the Judge and the Executing officer in his own case, certainly in these days, whatever may have been the case in the olden days when the lime-godown and the other familiar machinery were known. Here we have a Trust constituting itself as the Court or as an Arbitrator, as some would prefer to put it, for the purpose of assessing a variety of things and taking power to realize, on the analogy of the Municipal Act, which is no doubt a weak point in my position. What the Municipal Act, however, confers on the Municipality in the case of a number of proceedings involved is comparatively small, and so is the amount. That would not be the case with regard to the Trust, and where such large amounts are at stake and so many proceedings are sure to arise, it is desirable therefore that the ordinary machinery of the law should subsist. This is practically introducing what may be called the certificate procedure without its known safeguards with regard to property in Calcutta. We have the alternative in the second paragraph of clause 67B (*now 79*) where the amount concerned is not recovered under the distress proceedings. The President may, after giving public notice of his intention to do so, sell the interest of the person concerned by public auction, and may deduct the money and the expenses from the proceeds of the sale and shall pay the balance to the defaulter. I confess, Sir, that I do not quite follow what is intended to be done there. So far as the Municipal Act is concerned, whatever the consequences may be, the meaning is fairly clear. As things stand under the Municipal Act, if the amount due is not recovered under section 357, sub-clause (*3*), the Chairman may enter upon the land and sell the same with erections standing thereon by public auction, and so forth The land concerned is the clear objective of the sale there. I take it, Sir, that that is also the objective of the framers of this part of the clause. But we, who are accustomed to read words strictly and to construe them still more strictly, feel it our duty to bring it to the notice of the Council that no such objective is specifically indicated in that sub-clause. What is the President to sell—sell the interest of the said person or successor—in what? If it is intended, as I suppose it is intended, that his *interest in the land* concerned should be sold, it should be made clear. If, however, we were to let things stand as they are, the Trust itself would not have a very easy work of it and would not know what to sell. What are they going to bring to sale—the interest a man may have generally in all earthly properties that he may be possessed of? No Court of law would allow such an

indefinite objection. I take it, therefore, that they mean to sell a man's interest in the land concerned. I know, Sir, that the greater the indefiniteness and the cloud attaching to any law that may be passed, the better for a certain class of people amongst whom I rank, and I for one ought not to quarrel with ambiguities and incertitude in the law. That, however, does not stand in my way to do what I conceive to be my duty as a Member of the Legislature and to try to have cleared up all possible doubts. That was one reason why in spite of the prospective gain to my profession I felt bound to draw the attention of the Legislature to this glaring defect which has been allowed to stand. But even if the matter was cleared up, as I have no doubt it will be cleared, even then I would have very strong objection to adopting what was adopted in the Municipal Act in view of the small number of cases that would come before the General Committee under that section and the comparatively small amounts concerned I do not know, Sir, for I have not the facts and figures before me as to how far this section of the Municipal Act has been given effect to. I must confess I have not heard that it has acted prejudicially to the ratepayer's interest possibly because there have been few or no cases under that section in which the Municipality has taken upon itself the onerous and risky responsibility of selling land without the intervention of the Courts; but we cannot flatter ourselves that equally easy will be the case in connection with clause 67B (*now 70*) of the present Bill. The number of cases will be here large; the amounts involved will be larger. We shall not at the same time have the safeguards of the certificate procedure which is practically attempted to be incorporated in this clause without its manifest or known safeguard. Under these circumstances, I submit, Sir, that the ordinary machinery of the law by which every creditor realizes his due, whether through the Small Cause Court or through the High Court, as the case may be, ought to be the remedy left to the Trust. It ought not to be the judge in its own case and also the agency for execution of decrees in its own case. We know what tremendous difficulties arise sometimes in execution proceedings which cannot be lightly brushed aside. Important questions often arise, and these can never be dealt with by the Trust. Litigation cannot be stopped if anything wrong is done, and the aid of the Court will be invoked. Therefore it is best that the ordinary and orthodox machinery of the land should be allowed to do its duty."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir, I do not think that, apart from the technical difficulty into which I do not wish to enter, the provisions that we have now got entail any real hardship upon the people. In the first place I must say that we are thankful to Government for having given us this privilege of being able to retain the land; that is a provision which does not occur in the Bombay Act. Day before yesterday I was trying to provide certain safeguards, but I have failed in my efforts; that, however, is another matter. The conditions under which a man is allowed to retain his land are these:—'He may either pay the money in three years, or he may never pay the money and consent to a rent charge, but in that case if he consents to a rent charge of 4 per cent., he has got the privilege under sub-clause 8 of clause 67A (*now 76*) at any time to pay off, so that if he finds that he will not be able to pay off in three years he can easily enter into an arrangement with the Board that he will pay interest at 4 per cent. upon the amount fixed by the Board, and then at any time thereafter he is at liberty to pay off with all the arrears; therefore the party who enters into the arrangements, if he knows what he is about, does not suffer any real hardship.' Then comes the question of clause 67B (*now 70*) which, I apprehend, applies to those cases in which the party enters into an agreement to pay within three years. I quite sympathise with my friend when he says that the ordinary procedure of the Law Court should not be lightly set aside, and we may be faced by difficulties which we do not anticipate on the present occasion. What will be naturally recovered will be heavy amounts, and probably the procedure of distraint will not be enough,

because in the case of a man of moderate means where the charge upon the house is Rs. 5,000, it is hardly to be believed that the man will have sufficient movable property in the house to enable the Board to realize the money. At the same time, Sir, I feel that it is hardly fair to the Trust to put it in the position of going to a Court of Law bringing a suit and going through all the various stages in order to bring the property to sale. The clause, as it is framed, seems to me, however, open to some objection. I had not considered that in the Select Committee. It says: 'The same shall be recoverable by the Board in the manner provided by the Calcutta Municipal Act,' so that when a man fails to pay he makes it compulsory upon the Board to proceed by distraint. In many cases the Board may be satisfied that such procedure will be useless, and the Board will have to proceed under the second clause, but it cannot proceed under the second clause until it has applied the first clause, namely, until it has sold his movable property, so I think it would be more desirable if we make the first clause an optional clause with the Board. In the case of a rich man from whom the money may be realized, the Board may proceed against him and sell his movable property. I think it would be an advantage that instead of proceeding to sell the land or the house the Board should in the first place proceed by distraint. It would probably be better if it was left entirely to the discretion of the Board as to whether it should proceed by distraint of movables or sale of the immovable property. In that case it would leave it open to the Board to satisfy itself as to whether—under all the circumstances which would be the better course—to proceed to sell the immovable property or to sell movables found in the property. If it thinks it will not do to proceed by distrairt and will unnecessarily be a harassing procedure, it will proceed to sell the immovable property, but the clause, as now framed, I believe, precludes the Board from selling the land until, in the first place, it has sold the movables. But as regards my friend's fear that the people will suffer unnecessarily if this power is allowed to the Board, I do not share in them, and when the Board executes the agreement it would take good care to see that the man has the first and paramount title to the property. When that title is sold, I do not think that much difficulty will accrue. The only thing that is a matter of moment and which the Trust must take into consideration is that the Board has no power to put the purchaser into possession, and that will to some extent detract from the value of the property. These are real difficulties that may be considered."

The Hon'ble MR. BOMPAS said:—

"Sir, I have some confidence in opposing this amendment when I have the support of the Hon'ble Babu Bhupendra Nath Basu. It is obvious from his remarks that the whole of clause 67B (*now 79*) is a difficult clause, and we took a great deal of trouble in the Select Committee over it, and I think we cannot now deal with anything except the amendments that are before us. The main justification of the clause is that it is desirable that the Board should enter into agreement as freely as possible with people who wish to retain their lands, and clearly it will assist the Board to do so if it has summary powers of recovering sums due under the agreements. I do not agree that distraint should not be tried in the first place. It is not the lump sum recoverable under sub-clause 4 (*a*) that will usually be dealt with; it is the small annually recurring payments for interest that have to be recovered; and for these the Board should have first to proceed against movables. As regards the departure in regard to the Calcutta Municipal Act, the power of selling the lands, etc., it was expressly put in to facilitate the working of this clause. Section 357 in the Calcutta Municipal Act was not very carefully drawn when it was drafted, because there was no experience of this kind of work then, and we have on examining it had to provide for some contingencies. We thought it undesirable to give a right in perpetuity to sell the land and not merely the interest in the land of the person who made the agreement or of his successors It would make it impossible for him to deal with the land. It will be in the interest of the people to let clause 67B

[*the President; Mr. Bompas; Babu Bhupendra Nath Basu; Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari.*]

(*now 79*) stand as it is. The only thing that has suggested itself in consequence of the remarks of the Hon'ble Babu Deba Prasad Sarbadhikari is that the words, in such land, be added after the words 'successor in interest' and that the words 'in such land' be added after the word 'successor'."

The PRESIDENT said :—

"These may stand over until after the Hon'ble Member replies."

The motion was then put and lost.

The Hon'ble Mr. Bompas, with the permission of the President, moved that the words "in such land" be inserted after the words "successor in interest" in line 7 of clause 67B (*now 79*).

The motion was put and agreed to.

The Hon'ble Mr. Bompas, with the permission of the President, moved that the words "in such land" be inserted after the word "successor", in line 11 of clause 67B (*now 79*).

The motion was put and agreed to.

386. The Hon'ble Babu Bhupendra Nath Basu moved that the words "(together with interest, up to the date of realization, at the rate of 4 per cent. per annum)", in lines 5 and 6 of clause 67B (*now 79*), be omitted.

The Hon'ble MR. BOMPAS said :—

"I do not think this amendment is necessary now."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn—

387. The Hon'ble Babu Bhupendra Nath Basu to move that the words "and not less than three months after the publication of such notice" be inserted after the words "to do so", in line 10 of clause 67B (*now 79*).

388. The Hon'ble Babu Bhupendra Nath Basu moved that the words "and not less than one month after the publication of such notice" be inserted after the words "to do so", in line 10 of clause 67B (*now 79*).

The motion was put and agreed to.

Clause 71 (now 82) (1).

389. The Hon'ble Rai Sita Nath Ray Bahadur moved that the words "and usufructuary mortgage", in line 2 of clause 71 (*now 82*) (*1*), be omitted.

He said :—

"The clause as it stands would entail great hardship to the would-be mortgager. But in the present state of the Council, when I find most of the non-official benches empty and the Members have left for their respective homes, I do not like to press my amendment."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn :—

389A. If Motion No. 389 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "and" be inserted after the word "sale", in line 2 of clause 71 (*now 82*) (*1*).

390. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "usufructuary mortgage and lease" be substituted for the words "and usufructuary mortgage," in line 2 of clause 71 (*1*) (*now 82*).

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

He said:—

"Sir,—This clause is entirely new and is one of ways and means. I am afraid the word 'usufructuary mortgage' in the amendment is redundant, for it stands already. I do not know what mistake led to my putting the amendment in that form."

The Hon'ble MR. BOMPAS said:—

"I do not think so, because the word 'and' before 'usufructuary mortgage' has got to be removed by some method."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Any way, the chief object of this amendment is to bring leases under the category of deeds of transfers, which will be liable to larger duties than they are at the present moment. That the lease is one of the most important deeds of transfer is well known, and if the object of this clause be, as I have no doubt it is, to supplement the resources of the Trust, I do not quite see why the most important and numerous class of documents should be excluded. So far as I am concerned, I should certainly have been pleased if no extra imposition of the kind, that this clause seeks to make, were at all necessary. But that is a question of policy—one of those fundamental questions into which we cannot go at this stage of our proceedings. In moving this amendment, I do not, for one moment, concede that conveyances or 'usufructuary mortgages' or gifts, for the matter of that, should be handicapped in the way as this clause seeks to do; but we have to take things as they are, and have to accept the policy of taxing these instruments. If so, at the risk of repeating myself, I ask, why should leases be excluded. I have been looking at the Statement of Objects and Reasons, where no clear reasons for this omission are to be found. Taxing 'usufructuary mortgages' is really a matter of no practical moment, because in the experience that I have in the profession, which is now fairly long, and in the longer experience of my friend to the left and others, where we have daily to deal with Calcutta instruments of transfer, 'usufructuary mortgage,' is absolutely, or to be cautiously accurate, is almost an unknown practical quantity. I have never known of any in Calcutta. There are manifest risks and disadvantages attaching to an 'usufructuary mortgage,' liability to collect, liability to account, liability for neglect by the mortgagee; and a variety of considerations arise which make an usufructuary mortgage an absolutely unpopular mode of draftsmanship with regard to Calcutta property. I do not know exactly why it has come in unless to make the clause fairly respectable to look at. But the much more important affair of the lease has been omitted. There could not be very much of an object in putting a discount upon conveyances or gifts, I take it, and the whole of the object in view is to get in money and not to handicap transfer artificially by extra taxation. Why then is the lease which would bring in a very large sum to be omitted? I may, without betrayal of professional secrets, say that the omission of the lease from the category of taxable deeds would be liable to thwart the very object of this clause, for here I repeat, conveyance by way of leases and releases used to be a very favourite method of dealing with property not so very long ago in England and in this country. Should this clause be passed as it stands, I think there is ingenuity enough left in the profession to devise a means by which the elaborated procedure may be reversed and the object of this clause thwarted. I am afraid, when I go back to the High Court after the debates here are over, I shall not have a very comfortable time of it for thus giving the profession away. In fact, I am already beginning to have in my immediate neighbourhood unpleasantness enough of this particular kind; but that will not stand in the way of my saying what I feel with regard to this matter, and submit my objections for the consideration of the responsible advisors of Government. If you bring in leases, a larger number of persons interested in Calcutta land will contribute. All who know anything about Calcutta land in the recent years, also know that sales are getting more and more

unpopular for reasons that I have not been able to fathom, and leases for long periods are favoured specially by speculators, who do not wish to invest large sums of money straightaway, but who would take their chance as they go on and pay comparatively high rent for building leases instead of paying down in a lump the price. There are epidemics in Calcutta of plague, small pox, etc., which are well known, but lately there has been a building epidemic also. There has been an abnormal activity of builders in recent times. If you examine the case of this building activity, you will find that in most cases—not in all—it is leaseholds that are being built on, leaseholds, such as, in the words that I quoted in this Council in a previous case have added to the difficulties of dealing with the sanitary problem in England. Why is this body of lease-holders coming in? Is there any reason why should they be exempted? A man taking a lease for 99 years and enjoying all the practical advantages and convenience of a conveyance without paying for it, will be able to circumvent this clause. I do not for one moment accept, as has been suggested by others concerned, that Calcutta is a city of tenants. It is not. It is largely a city of people living in their own houses. No figures have been adduced to the contrary, and until that is done, I am not prepared to accept the contrary proposition We shall deal with it later on and in another concern, and therefore I shall not anticipate that situation. There is no doubt that there is a steadily increasing tendency, for reasons of policy, I cannot discuss now, of substituting leases for conveyances, and a still more marked tendency will be manifest the moment you pass this clause and omit leases from the purview of extra taxation. I emphatically say that leases ought to be included in this category, if any deed is to be included for the purpose of supplementing the finances of the Trust."

The Hon'ble Rai Sita Nath Ray Bahadur said:—

"I am surprised that this amendment should be moved by an Indian Member. When all the Indian Members, including the Hon'ble Babu Deba Prasad Sarbadhikari himself, have been straining every nerve, have been doing all in their power, to lighten the burden of taxation, and thereby to lighten the burden of the people, I am surprised that a proposal should emanate from the Hon'ble Babu Deba Prasad Sarbadhikari that leases should be included in the category of instruments which would be liable to pay a duty of 3 per cent., such as deeds of sale-gifts and usufructuary mortgage There are leases and leases—leases for 99 years as well as leases for a year. I ask where would you draw the line? Would you like to impose a duty of 3 per cent. on a lease executed by an ordinary tenant for a year or two? If so, what would be the effect? My reply is that it would go to thwart and hamper the execution of the several hundreds of leases that daily take place in Calcutta; it would seriously interfere with the ordinary transactions.

"What is your object, pray—to add to the burden of taxation or to lighten it? If the latter, I would, in all seriousness, request the Hon'ble Member to withdraw his amendment."

The Hon'ble Mr. Wheeler said:—

"After what has been said by the Hon'ble Rai Sita Nath Ray Badadur, it is not probably necessary that I should add much in opposing this amendment. It is true that the object of clause 71 (*now 82*) was that property in Calcutta, which has benefited largely by the development of the town, should bear a fair share of the burden of the operations of the Trust, and various suggestions were made from time to time as to how that should be done. At one time a succession or death duty was thought of, but it was given up as impracticable. Then the idea of a special owner's rate was discussed, but was discarded, and eventually a simple transfer duty was imposed by clause 71 (*now 82*), amounting to 2 per cent. on the value of the property transferred by sale, gift and usufructuary mortgage. The papers show that, from the

outset, only sales, gifts and usufructuary mortgages were contemplated, and while leases are undoubtedly a form of transfer of property, it was never sought to include them. The proposal was never inserted in any of the schemes regarding which criticism has been invited, and the public have never discussed the desirability of taxing leases. It is possible to see various objections to so doing, and public opinion would probably have discovered others. In these circumstances I think the Council will be ill-advised to accept the amendment. As the Hon'ble Rai Sita Nath Ray Bahadur has pointed out, leases are for varying periods, and the transaction in many cases may be of a very transitory description. It is not established that the additional revenue from the taxation of leases will be required, and as this might cause considerable hardship, it is preferable not to include leases in the clause."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—The Hon'ble Mr. Wheeler has said that the insertion of the lease within this category would lead to deep resentment of the public. Would this be the only matter with regard to which there has been or will be public resentment? Does public resentment come at all into our consideration, not only in the Press or the platform, but in the memorials which have been criticised in the way that I shall not refer to now in this Council? Therefore, the question of deep public resentment is altogether beside the issue in the consideration of this question. The Hon'ble Member has been good enough to contribute a novelty to this proposal—novelty especially when contrasted with other proposals tending to take away from the strength of the Board, financial and otherwise. Sir, these amendments had to be moved, because the framers of these amendments thought they ought to be. In the same way, I think this ought to be, if we are going to tax property in Calcutta—I do not say it ought to be, so far as the transfer is concerned. Because it has not been suggested in the previous stages is, I think, no reason of its exclusion if it otherwise commends itself to the Council, because it involves no fundamental question of policy that might reasonably be put forward against it The Hon'ble Rai Sita Nath Ray Bahadur has begun openly and publicly the crusade and tirade for which I had quite prepared myself when I put forward this proposition. But in dealing with these questions we must remember that we are legislators first and Indians afterwards. That has been the moving spirit of all the amendments as of this one, and if this one does not happen to commend itself to the Hon'ble Rai Bahadur or others of us, I should be very sorry to think that my friend would think poorly of me because I am an Indian and have had the misfortune of feeling it my duty to put this forward. I have said on previous occasions, and I say it again, that I am not here as the landlord's representative or as the custodian of their interests, though, Sir, by your courteous and considerate kindness some of us have stepped into the seats of the mighty; in this Council chamber I do not represent land-owning interests. I certainly do think that if deeds of transfer have to be included, the most important body of them ought not to be excluded, although it may affect the Calcutta landlords. The Hon'ble Rai Bahadur says there are leases and leases. It is a misfortune that we cannot distinguish them. There has been a change with regard to them, and it has not been attempted to be made for the official or the non-official Indian gentlemen who desire to stand out in the right of the Indian landlord. Can we gainsay that there is a distinct tendency towards the leasehold system which will take all conveyances out of the purview of this clause? If so, this clause would be absolutely valueless. Let us agree upon the usufructuary mortgage. It is a chimera. We have none of that in Calcutta. As regards gifts, Sir, that is almost as good or as bad a chimera, whatever may have been the tendency in the olden times; we adhered to the right of proprietorship absolutely to the last moment. Gifts *inter vivos* are a rare institution in Calcutta. There may be trusts in Calcutta which are not covered by this clause. With these increasing facilities for testamentary dispositions—dispositions that will not be affected by this clause as it was intended to do at

one stage of the proceedings—testamentary dispositions, which have been gaining in popularity, will be still more popular, and the few gifts that used to be in practice in former times will again give way. Therefore gifts go, usufructuary mortgage there is none, and I take it, Sir, it is no use moving any amendment that does not commend itself to the officials: this also will go. Without being a very bad prophet, I may say that the number of conveyances will be smaller than ever, and leases and releases will be the order of the day. With that warning the Council is welcome to accept or reject this motion as it thinks fit."

A division was then taken, with the following result:—

Ayes 3.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apear

Noes 35.

The Hon'ble Mr F. A. Slacke, C.S.I., *Vice-President*

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr H. Wheeler, C.I.E.

The Hon'ble Mr. B. K Finnimore.

The Hon'ble Mr S. L. Maddox.

The Hon'ble Mr. G. W. Kuchler.

The Hon'ble Mr. L F. Morshead.

The Hon'ble Mr. C. H. Pompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Mr. Golam Hossein Cassim Ariff

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.

The Hon'ble Babu Hrishikesh Laha

The Hon'ble Maulvi Saiyid Zahir-ud-din

The Hon'ble Mr. T. R. Filgate

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Mr. Dip Narayan Singh.

The Hon'ble Babu Bal Krishna Sahay.

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Wheeler.*]

The following Members were absent:—

The Hon'ble Mr. E. P. Chapman.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Maharaj Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.
The Hon'ble Babu Braj Kishor Prasad.

The following Members abstained from voting:—

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Babu Bhupendra Nath Basu.

The result of the division was, ayes 3, noes 35, and the motion was therefore lost.

391. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "of the value of Rs. 40,000 or upwards" be inserted after the word "property", in line 3 of clause 71 *(now 82 (1))*.

He said:—

"Here, Sir, I hope to have the sympathy and support of my Hon'ble friend, Rai Sita Nath Ray Bahadur. I desire to fix a limit with regard to the amount of deeds concerned. Smaller purchasers have difficulties enough, which will now be increased. Those who will have to move out in the process of the improvements will have their difficulties considerably added to when the buildings available will be smaller than ever—a class of difficulties must be familiar to all. Of course I cannot anticipate what will happen to the compensation clauses that follow. But one cannot take it that they will fail. Therefore, the difficulties will be still greater. If in the case of the smaller purchaser we could see our way of granting some remission of the kind that I suggest, it would be a real boon. I therefore beg to propose that conveyances and cognate deeds, in which the consideration is less than Rs. 40,000, should not be taxed in the way proposed to be done."

The Hon'ble Babu Bhupendra Nath Basu said:—

"Sir,—I feel that the limit is too high."

The Hon'ble Mr. Wheeler said:—

"In dealing with this and the subsequent amendments of a like character, it might be convenient if I draw the attention of the Council, at the outset, to certain general consideration connected with these taxation clauses of the Bill, which should be borne in mind when they are discussed. The point that I desire to press is that the taxation clauses of the Bill must be regarded

as a whole—a whole that has been arrived at after very long and detailed discussion of many suggestions and many alternatives, and which was eventually held to constitute a fair and reasonable distribution of the burden over the different classes of the community, upon the basis of which the Secretary of State has agreed to assist the Trust. Any material change in any respect may upset the whole balance of the scheme of taxation, and other considerations than the particular merits of each proposal are, therefore, involved.

"The question of the improvement of Calcutta, as Hon'ble Members are aware, has practically been under discussion since 1898, and for the first four or five years, till 1904, although the discussions were not made public, they were mainly directed towards the method of financing the Trust. That obviously was one of the root difficulties, and many suggestions were dealt with. The Calcutta Building Commission proposed, as suitable objects of taxation, jute, opium, petroleum, while they thought that money might also be raised by the imposition of local canal dues, the allocation of a share of the local excise revenue, a terminal tax, an octroi, or a local addition to the income-tax. It is curious how at that time they struck upon so many of the possible sources of revenue which have since been examined. In the course of the discussion of the matter the idea was introduced of a special subvention from Imperial Revenues, and this was first set before the Secretary of State in 1900. Matters were not at that time sufficiently advanced to permit of a detailed scheme being framed, but it is noticeable, and may be emphasised, that, in agreeing to pursue the suggestion at all, Lord George Hamilton insisted upon the condition (among others) that adequate arrangements were made to raise additional taxation from the population of Calcutta. The matter next came before the Secretary of State in 1902, and His Lordship again reverted to the necessity of the Corporation being required to make payments of a reasonable amount from the outset. For the first time, in 1903, public opinion was invited by means of a letter to the Calcutta Corporation, and it was then made known that the Government of India would be prepared, under certain conditions, to make a grant of Rs. 50 Lakhs to the scheme. Apart from the question of the municipal contribution it was mentioned that the idea of an octroi and terminal tax had been discarded, also that of a tax on jute. The only special tax, which was then proposed, was on petroleum. As also doubtless will be remembered by the Council, the discussion was not continued on that basis, because the whole proposal for the improvement of Calcutta took a new shape in consequence of the recommendations of the Committee which sat in 1904, upon which there were representatives both of the Bengal and Imperial Governments, and two leading Indian gentlemen—Dr. Ashutosh Mukharji and the late Babu Nalin Behari Sircar.

"That Committee threw the proposal for improvement into a new mould, in which it has continued ever since, and from which the present Bill has eventually resulted. Irrespective of contributions from the Corporation, they contemplated a levy on jute, an additional income-tax, succession and transfer duties and a terminal tax. They discarded the idea of a petroleum tax largely in the interests of the poorer classes. When this scheme came before the Secretary of State, he referred to it as being calculated to distribute, in a fairly equitable way, the burden of the sanitary improvement of the city over all classes of the community and likely to meet with readier acceptance and to prove less onerous than any possible alternative. When public opinion was next consulted in 1905, all the above suggestions were mentioned as possibilities, and in addition there was the suggestion of a special owner's rate and taxes on timber and animals slaughtered. The present Bill emerged from the different views then expressed, and it provides for an addition of 2 per cent. to the stamp duty on the transfer of property in Calcutta, a tax on jute, a tax on persons arriving and leaving Calcutta, and a contribution from the municipality. When the matter was next discussed in 1905-06, it was evident that there was a strong feeling that the assistance which was being given by the Government of India was insufficient. That view was laid before the Secretary

of State, and in communicating his orders in 1908, in accordance with which this Bill has been framed, Lord Morley made a very important pronouncement which it is essential that this Council should bear in mind in considering these clauses. He said:—

"I do not agree with the view that the promised grant-in-aid of one-third of a million sterling from general revenues is inadequate, whether regard be had to the total cost of the scheme or the extent to which the general tax-payer is interested in the improvement of Calcutta, but I defer to your opinion that the case presents special grounds for exceptional liberality of treatment, and I am willing to assent to a further grant-in aid of Rs. 1½ lakhs (£10,000) per year for 60 years being conditionally promised, the condition being that the scheme of taxation set out in your letter becomes law in its entirety and is made effective for the full term of 60 years. The annual grant-in-aid will thus be in addition to, not a partial substitute for, the proposed income of the Trust."

"To sum up, Sir, the proposals for taxation which are embodied in the Bill are the outcome of much discussion and examination of possible alternatives to which I have briefly referred. The present scheme has been sifted out from a mass of criticisms and under the impulse of many different opinions, and we are not entirely free agents in discussing these clauses. It is not the case that the town of Calcutta is producing the whole of the funds required from its own pocket, when it might perhaps have claimed a weightier say as to the method by which the money should be raised; but the Board is going to be helped to a great extent by the general tax-payer and the assistance of the Government of India is only given under the conditions laid down by Lord Morley. These preclude our accepting amendments to these taxation clauses, which would lighten or vary the incidence of the scheme of taxation as a whole. If you begin tinkering with this part or that, you may disturb the whole balance of the proposals which have been framed after comparing the interests and habilities of the different classes of the community. If any attempt were made by this Council to do so, it would be a breach of the conditions under which the Imperial assistance has been given, and the amount of that grant may be reconsidered. In other words, we should go far to wreck the Bill, and in any case, might curtail the operations of the Board to a most undesirable degree.

"I would apologize for these lengthy general remarks, Sir, but it is needless to repeat them in connection with each amendment, and in the view of Government, they must be considered in dealing with all these points. The particular amendments now before us are four or five in number, and are all of a somewhat similar character. In one way and another, they are all designed to reduce the incidence of the transfer duty. The one immediately before us is to tax the transfer of property only if of the value of Rs. 40,000 or upwards. If this is not possible, the Hon'ble Member would be content with a limit Rs. 25,000, and again in the alternative, he would be satisfied with Rs. 10,000. The Hon'ble Babu Bhupendra Nath Basu would go down to Rs. 5,000 for the 1 per cent. duty and levy 2 per cent. on property of the value of more than Rs. 10,000; while the Hon'ble Maulvi Saiyid Fakhr ud-din is prepared to go down to Rs. 5,000. We are bound to oppose these proposals. We have no doubt no idea what they would mean in actual figures and what effect they would have on the revenue which is expected to be derived from this source. The point is one in which the Corporation is particularly interested, since the stamp duty and the contribution of the Corporation combined have been estimated to yield Rs. 7½ lakhs, and any shortage will have to be made good by the Corporation. The general merits of this form of taxation on property are justified by the fact that the property owners of Calcutta have benefited largely by the expansion of the city and will be benefited still further by the improvements to be carried out. The rate proposed in the Bill is not heavy, and we are bound to resist any attempt to reduce it."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir—The key to the situation appears to be the concluding remarks of the Hon'ble Mr. Wheeler, 'we are bound to oppose this amendment.' If they

[*The President; Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

are bound to oppose the amendment, because of the very interesting facts that have been detailed by my Hon'ble friend, it appears to me that we, as a legislature, have no further say in the matter, on account of what has preceded in the way of executive consideration of the measure. If that is the position with regard to it, I think that it is not only no good in moving this amendment, but all these amendments are more or less out of order and may have been ruled out accordingly. If, because of what my friend has stated and of the executive action that has already been taken, the legislature is precluded from considering any proposal that may be brought before it, whatever its merits may be, I do not know that we can usefully take up the time of the Council, either in moving these amendments or in detailing their merits as they appear to us. What has been decided has to be carried out. That is, in short, the proposition laid down by my friend, and if that is the real position of the matter, which makes him say that he is bound to oppose this, questions of merit cannot be gone into. If, however, they could be gone into, what the Hon'ble Babu Bhupendra Nath Basu has said with regard to the Rs. 10,000 limit being too high, would possibly arise, and in that view we have given notice of successive amendments, the last ditch of which is—in my friend's phraseology—the Rs. 5,000 ditch. I do not know what good could possibly be achieved by pressing these amendments or even placing them before the Council, though in the shortest possible manner. I would ask Your Honour's ruling, therefore, as to whether, under the circumstances that have been detailed by my Hon'ble friend, these amendments are at all in order."

The PRESIDENT said:—

"I think the Hon'ble Member has not comprehended the Hon'ble Mr. Wheeler's argument. He said that he was bound to oppose all amendments which materially interfered with the scheme of taxation and which would go far to wreck the Bill, that is to say, that if the financial arrangements of the Bill are disturbed, the Bill as carried in Council may not receive the assent of the Governor-General. That course was explained by the Hon'ble Mr. Wheeler, and that was the consideration which he asked the Members of Council to keep in view in dealing with financial questions. At the same time, the Members are at liberty to move their amendments, if it is no concern with them whether the Bill is passed in a form which will receive the assent of the Governor-General or not."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—We must deny with all the emphasis we can command that we are indifferent to the cause of sanitation and to the fate of the Bill and are interested in seeing that the Bill is wrecked or passed in such a way as it may be impossible for the Government of India to give its assent to. No intention can be further from our minds, and what we are persistently trying to do, with a degree of insistence no doubt, is to have the Bill improved from all possible points of view. I am much obliged to Your Honour for ruling that my present amendments, to which by implication a wrecking propensity is gratuitously attributed, are not out of order, and I should like to press them. We do not believe that these slight concessions to public demands will tend to wreck or even weaken the Bill, although it may make some slight diminution with regard to its finances for the time being. We have now quite enough stand-by, and it would be possible, with proper economy and proper efficiency, to work the whole matter so that the Improvement Scheme may not be wrecked, yet the burden on the public may be the least possible. I do not exactly know at what point of time this particular scheme of taxation regarding Calcutta house properties came in. As far as I have been able to follow the Hon'ble Mr. Wheeler, it was after the stage when the non-official Members had an opportunity of being consulted or advising the Government in the matter and not earlier. If I am wrong, I may be pardoned."

The Hon'ble MR. WHEELER said:—

"The transfer duty was one of the proposals of the Committee of 1904."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"That I thought was the income-tax. At all events, the considerations that impel me to make this proposal I have tried to explain. If Rs. 40,000 is too high a limit, let us agree upon a smaller limit, so that really the smaller house-holder may be relieved of the unquestionable difficulties of the situation, however small the burden may appear from the Hon'ble Mr Wheeler's point of view. In this view of things, I desire to withdraw this amendment regarding the Rs. 40,000 limit."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

392. If Motion No. 391 be not carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "of the value of Rs. 25,000 or upwards" be inserted after the word "property," in line 3 of clause 71 (*now 82*) (*1*).

393. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "of the value of Rs. 10,000 or upwards" be inserted after the word "property," in line 3 of clause 71 (*now 82*) (*1*).

The Hon'ble MR. WHEELER said :—

"I should oppose this, Sir, for the same reasons generally that I have already indicated. There is no reason why properties of small value should not be taxed. The rate of taxation is not high, and we have not the slightest idea what the practical effect of this amendment might be."

The motion was then put and lost.

394. The Hon'ble Babu Bhupendra Nath Basu moved that the words "exceeding Rs. 5,000, but not exceeding Rs. 10,000 in value," be inserted after the word "property," in line 4 of clause 71 (*now 82*) (*1*).

He said:—

"Well, Sir, I must confess that one does not feel very much inspired when he goes to battle with a certain sense of defeat. But I feel that, in these questions, if I do not have the support, I shall have the sympathy of official friends, and I am quite certain that I shall have the sympathy as well as the support of my non-official colleagues, because I have put down my limit at Rs. 5,000, by which a person who sells his house for Rs. 5,000 is to be exempted from the operation of this tax. I am quite sure the Hon'ble Mr. Wheeler will not raise any objection as regards its intrinsic merits. It is a well-known and well-established principle of taxation—a principle which we have followed in this country, according to which small incomes are exempted in the case of the income-tax, where we have got a limit of absolute exemption up to Rs. 1,000 and a partial exemption up to Rs. 2,000. In England, in the case of death duties, the same principle has been adopted. I am quite sure that the Government, if left to itself, unfettered by the directions of the Secretary of State's letter, would feel no hesitation in accepting a principle which they have thus laid down for their own guidance in other departments of the State. It is not fair that the poor should contribute equally with the rich. That greater responsibility attaches to wealthier men is now generally recognised, though nearly 19 centuries have elapsed since the time when it was said, 'to whom much is given, of him much is expected.' I, therefore, base my amendment on a principle which has the high sanction of antiquity, and the present sanction of general adoption throughout the civilised world. The only difficulty that appears to my mind to stand in my way is that it may so disturb the scheme of taxation as to throw the whole Bill out of gear. Is that so? Is that the position which is at all established? I had raised the question in the Select Committee; but, unfortunately, since those days I have been absent, and I have not been able to gather facts about the sales of property of Calcutta of the value of Rs. 5,000 and below. But I believe it was open to my friends to have

that inquiry made in the meantime. Even if they have not done so, let us see the scheme of taxation that has been proposed, and let us see whether this exemption that I now claim will, in any way, interfere with that scheme. My friends will pardon me if, in dealing with this question, I tell them that the estimate was that between Corporation and the property-owners, that is, vendors and purchasers of property in Calcutta, there should be an annual contribution of Rs. 7,50,000. That was the principle. I may quote from the opinion that was given by the Corporation of Calcutta at a time when my friend, the Hon'ble Mr. Payne, was its acting Chairman. They borrowed those figures from the Secretary of State's letter, and this sum of Rs. 7,50,000 was divided in this way. At that time it was anticipated that the 2 per cent. contribution from the Corporation would yield Rs. 5,50,000, and the balance Rs. 2,00,000 should be made up by this duty of 2 per cent. upon sales, etc. I will accept that principle that you require Rs. 7,50,000—of that Rs. 7,50,000, Rs. 5,50,000 is to be paid by the Corporation, and the Rs. 2,00,000 to be levied in this way. Since then, when the Secretary of State wrote this letter, an important change has taken place, and I am quite sure that the Secretary of State is not deaf to reason that, if you put to him a case properly for the protection of the poor, he will not listen to you. The change that has now taken place is this: that the 2 per cent. contribution from the Corporation, instead of yielding Rs 5,50,000 at the present day—I am speaking from their notes—would yield Rs. 6,56,000, so that there we have a clear difference of one lakh. I have consulted many Corporation officials, who say that, probably in the next year, the 2 per cent. contribution will yield Rs. 7,00,000, if not Rs. 7,50,000, so that you need not fear that if this exemption were granted the requisition of the Secretary of State would not be complied with. The Secretary of State wanted that there should be a contribution of Rs. 7,50,000 by the Corporation of Calcutta and the vendors and purchasers of landed property in Calcutta, and on that basis he agreed to make the proposed Government grants. That is a position which I perfectly understand. If that position still remained, I would be the first person to support my Hon'ble friend Mr Wheeler, when he says that the Improvement Scheme is of such vital importance to the interests of Calcutta that these little things should not be allowed to stand in its way, but now our financial position is such that we can safely grant some remission in another direction—a remission about the justification of which I think I need not say much. Should we be precluded from asking for that remission? I am quite sure that, if the Hon'ble Mr. Wheeler, with the ability that has always distinguished his notes, were to write a letter to the Secretary of State, pointing out that under the circumstances some remission in this direction would not affect the balance of the different elements which go to form the total contribution towards the Improvement Trust, the Secretary of State will surely grant the concession. I have no doubt about it.

"There is another aspect of the question which may be cleared up. It may be said that if you exempt 5,000 sales, rich men, who may sometimes sell property worth Rs. 5,000, may be exempted. Then why should they have the benefit? Well, rich men, at least among our community—for whom in this case I may be entitled to speak with some authority, do not sell property unless there is a strong necessity. We somehow or other, often more foolishly than otherwise, stick to our properties as a matter of personal and family honour. We do not sell them, and when rich men do sell them, they do so under necessity. Therefore that question does not arise. As regards the poor man who sells his property for Rs. 5,000, he sells his all. It is the seller who, in every instance, will have to bear the entire charge, in any event, the greater portion of the charge. That is a proposition well known to political economists, and I would not take the time of the Council to place my authority before it, though I have got them with me. So take it in whatever way you will, take it in whatever light you think proper, the burden is upon the poor—a class of deserving poor. When a poor man in my community sells his property which may be his all for Rs. 5,000, he sells it under very strong pressure—he sells it for a necessity which he cannot avoid, *e.g.*, marriages of daughters, deaths of parents and things of that kind. And if he can be somewhat relieved without

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari.*]

endangering the scheme of taxation, without infringing the conditions upon which the Secretary of State has so largely laid stress, I do not think that we ought to take up the attitude—that we shall not grant him any relief. I do not ask my official friends to vote in my favour May I ask them to leave us to our fate on this question? May I ask them to abstain from voting against us? I am quite sure that if this aspect of the question be put before the Secretary of State—from what I know of him personally and what we would expect from a high official who is always dealing with large questions in a kindly spirit—I have not the remotest doubt that the question would be reconsidered, and that we do not stand the least risk of the scheme being wrecked merely because we have ventured to make an exception in favour of the poor house-holder who is not well able to pay, of a person who, by selling his all in Calcutta, will in the end derive no benefit from the improvements that will be carried out by your scheme. These are considerations which I most respectfully place before my friends. So far as my friends on the other side, officials, are concerned, they may feel some amount of restraint by the language of the Secretary of State's letter, but so far as we are concerned, there need not be any such feeling. My friends, who represent the great interests entrusted into the hands of the Chamber of Commerce and the Trades Association and who have daily dealings with most of us, rich and poor, know how hard is the condition of the middle class poor in Calcutta; they know it just as much as I do, as they have to deal with a large number of subordinates who depend upon them; and I feel sure that in this case they will come round to my support."

The Hon'ble MR. WHEELER said :—

"Sir,—On the general question of the exemption of small properties I have very little to add There does not appear to be sufficient reason for exempting small properties, as they have benefited, and will benefit, equally with large properties, and the amount payable upon their transfer will be very small.

The Hon'ble Member has, however, introduced a new argument, namely, that we estimated that the transfer duty and contributions from the Corporation combined would yield a sum of Rs. 7½ lakhs annually, of which the Calcutta Corporation should be responsible for Rs. 5,40,000. Since the contribution from the Corporation at the rate of 2 per cent. on the annual rateable valuation of property is now likely to amount to considerably more than Rs. 5,40,000, by reason of the rise in the value of property in the town, it is said that we can afford to take less under the head of the transfer duty. But this assumes that a total of Rs. 7½ lakhs was an absolutely final figure which need in no circumstances be exceeded. This, however, is not the case. I shall have more to say on the subject of the figures embodied in the Secretary of State's despatch when we come to the discussion of the contribution to be made by the Calcutta Corporation, and I would only now observe that these figures do not constitute a final statement of the income which it may be desirable to place at the disposal of the Trust and which can be usefully devoted to the improvement of the city. The figures are estimates only. It was determined to give the Board an income derived from various sources, and in order to decide what sources should be selected it was obviously necessary to estimate the sum which it was thought probable that each would yield, but it was never intended that if the yield was greater, the scale of taxation should necessarily be reduced. It may hereafter be found desirable to do so, and, if so, this can be done in accordance with clause 194 (*now 176*). But for the present, until we know how the working of the Trust will develop, it is desirable to give them all the income we can, and if the income exceeds the estimate, so much the better. It will only mean that so much the more work can be undertaken, and from this point of view the argument of the Hon'ble Member appears to be invalid.

"I cannot, therefore, recommend the acceptance of the amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"Sir—I wish to make only one observation with regard to the last statement of the Hon'ble Mr. Wheeler. If he had adopted an income-tax

[*Mr. Golam Hossin Cassim Ariff.*]

as one of the financial aids to the Trust, there would have been an automatic statutory limit as the Income Tax Act stands, namely, Rs. 1,000; if we had adopted a succession tax, there again would have been a similar statutory limit, Rs. 2,000, smaller no doubt than we are asking for in this amendment. It is on these lines and none other that we are asking to place a limit to taxation with regard to property also. This question of taxing certain instruments came up incidentally in 1870 when compensation was allowed in the case of compulsory acquisition. There the Legislature thought and said and provided that where such a compulsory acquisition took place, the people concerned ought not to be called upon to pay a tax on the instrument by which they got the compensation Of course, that would not exactly be the case here, but I am referring to that to show, when a proper case is made out for it, the question of taxing of instruments would be viewed in the light of considerations like those that presented themselves to the Imperial Legislature many years ago in connection with the Land Acquisition Act. No doubt, it has been laid down and accepted that property has to be taxed for financing the Trust and it will be taxed; but by accepting a limit of Rs. 5,000, as this amendment seeks to do, the burden of the Corporation will not necessarily be raised. I do not want to trouble the Council with figures—my friend Babu Bhupendra Nath has done so with great effect. We may take our stand upon that so long as we can, and it will be a question merely of a slight readjustment between the general taxpayer and the poor sellers. Therefore, there ought not to be that hesitation in accepting this amendment as there ought to be in the case of the larger limits."

The Hon'ble Mr. Golam Hossein Cassim Ariff said:—

"Your Honour,—I beg to support the amendment on behalf of the Muhammadan community. There is a principle of taxation, namely, that the better able a person is to bear the burden, the greater should be the burden imposed upon him, rather than upon poorer people coming under the same description. The progressive death duties and income tax are cases in point. It is not just that when a poor man sells his property worth, say, a thousand rupees for necessity, he should pay 2 per cent. for the operation of the Improvement Trust in the same way and to the same extent as a wealthy man who sells a landed property for a lakh of rupees for speculation. I think my hon'ble friend will admit, that for this Trust the wealthy should pay proportionately more than the poor. My community will be specially affected as the transactions done by them are often of a very small amount.

"My Hon'ble friend in charge of the Bill is probably aware that huts have been held to be immoveable property and many poor people who build huts on lands or lease for purpose of residence, have to sell them either through poverty or other causes. Seafaring men in my community, who go out on long voyages as lascars, crews, etc., have oft-times to sell their huts which they have built, leaving their family in the care of a relation. In our own country, in the case of income tax there is a limit of exemption up to one thousand rupees, and the reduced assessment up to two thousand rupees. I think some such principle ought to be adopted for the release of the poorer classes in Calcutta."

The Hon'ble Babu Bhupendra Nath Basu said:—

"It is certainly, Sir, with a heavy heart that I rise to reply to my Hon'ble friend, Mr. Wheeler. I am afraid that the argument that the amount is small and the incidence of the taxation is small is not a sound argument to meet me with, for to the small the small is great. It is the proportion. What a comparatively well-to-do man may pay, will be very heavy for a poor man with practically a very small margin for the bare necessaries of life to pay, and therefore very justly, in the case of income-tax, the limit in my country was Rs. 500 (and now Rs. 1,000), that the poor wage-earners were exempted. That some principle ought to be allowed in the case of the poor is laid down by Mr. John Stuart Mill.

[*Babu Bhupendra Nath Basu.*]

"It is quite true, and I appreciate to the full the observation of the Hon'ble Mr. Wheeler, when he says that in this taxation it is not necessary to exempt the poorer classes.' I shall assume that the Government will be moved to take the step at some future time, but what of the men in the meantime. A poor man sells his holding and goes out of Calcutta. It is with his bones that you make the bricks, it is with his blood that you cement the mortar that paves your roads, and he goes out. At some future time, when we exempt a large class of men, the poor men will have suffered, and then the man who will be exempted will not be in the same position as the poor man of the present day, because they will derive all the benefits from the improvement which will have been carried out in the meantime; so that from them you may probably, with greater propriety and with greater justice, claim what you are seeking from the poor of to-day, because he pays at the outset without receiving any benefit from the improvements. Twenty years hence he will derive the benefits that the Improvement Scheme will bring As regards the enhancement, principally the question will arise as to whether he ought not to contribute in a very humble degree to the improvement. But now things are different. A man pays who does not share in the benefits. Therefore that contention of my friend, I believe, is not well-founded. The real contention, I think, upon which my friend rests his case is the dictum of the Secretary of State. It is quite true that the more money we get, the greater will be the improvements that we shall be able to carry out. That nobody disputes. What I wanted to combat was this. We have provided for this scheme upon the minimum requirement, and the minimum requirement is 22 lakhs a year. Of this 22 lakhs, Rs. 7,50,000 have to be met by the Corporation and the house-owners of Calcutta who have got to sell their property. This is my minimum. My maximum may be anything above that. When we come to consider the financial aspects of the Bill, we shall show that the minimum will by far be ahead of the 22 lakhs that we seek to provide under our present scheme. The question is: Can we satisfy the Secretary of State with our minimum? If we say that between the Corporation and the rich people of Calcutta we are able to pay this Rs. 7,50,000, would it be reasonable to suppose that the Secretary of State will refuse this concession? Suppose there was a windfall—that a man like Carnegie were to rise in our midst and say, 'Well, I shall pay Rs. 7,50,000 conditionally upon your granting relief to the poor.' Can we say, then, that having regard to that windfall, some relief might be given in other directions, or would that condition be rejected as being such that cannot be given effect to because every man must pay his quota? I do not dispute the proposition that every man who derives benefits from the improvements ought to contribute towards this Trust, but there must be a limit at which a man who can merely get beyond the necessaries of life will be able to contribute. These poor men, who are mostly clerks in mercantile and Government offices, teachers in schools, and who have to undergo all sorts of epidemics in Calcutta, should contribute to a scheme which will largely benefit other interests along with them. The poor in a country derive as much benefit from the great institutions which the country provides for their protection as the rich do. But it is recognised, Sir, that having regard to the fact that these people have not got enough to meet the barest necessaries of life, they should be exempted from contribution in some way or other. This question has been so well argued on many platforms and on many occasions that it will be a mere waste of breath on my part to argue it, as it is known to most of us here."

A division was then taken, with the following result:—

Ayes 12.	*Noes 25.*
The Hon'ble Babu Bhupendra Nath Basu.	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Rai Sita Nath Ray Bahadur.	The Hon'ble Rai Kisori Lal Goswami Bahadur.
The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
	The Hon'ble Mr. E. W. Collin.
	The Hon'ble Mr. C. J. Stevenson-Moore.
	The Hon'ble Mr. J. H. E. Garrett.
	The Hon'ble Mr. T. Butler.

[*Babu Bhupendra Nath Basu.*]

Ayes 12—concld.	*Noes 25*—concld.
The Hon'ble Maharaja Manindra Chandra Nandi.	The Hon'ble Mr. E. P. Chapman.
The Hon'ble Babu Deba Prasad Sarbadhikari.	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. J. G. Apcar.	The Hon'ble Mr. H. Wheeler, C.I.E.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. B. K. Finnimore.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. S. L. Maddox.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. G. W. Küchler.
The Hon'ble Mr. T. R. Filgate.	The Hon'ble Mr. L. F. Morshead.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. C. H. Bompas.
The Hon'ble Mr Dip Narayan Singh.	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
	The Hon'ble Mr. C. E. A. W. Oldham.
	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Mr. Sheo Nandan Prasad Singh.
	The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
	The Hon'ble Rai Baikuntha Nath Sen Bahadur.
	The Hon'ble Babu Bal Krishna Sahay.

The following Members were absent:—

The Hon'ble Mr. R. T. Greer, C.S.I.
The Hon'ble Mr. B. C. Mitra.
The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*
The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.
The Hon'ble Babu Kirtanand Sinha.
The Hon'ble Raja Rajendra Narayan Bhanja Deo.
The Hon'ble Mr. Saiyid Wasi Ahmad.
The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.
The Hon'ble Mr. K. B. Dutt.
The Hon'ble Mr. M. S. Das, C.I.E.
The Hon'ble Babu Mahendra Nath Ray.
The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.
The Hon'ble Babu Braj Kishor Prasad.

The following Members abstained from voting:—

The Hon'ble Mr. Norman McLeod.
The Hon'ble Mr. Stewart.
The Hon'ble Mr. Bradshaw.

The result of the division was, ayes 12, noes 25, and the motion was therefore lost.

In the absence of the mover, the following motion was not put:—

395. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that at the end of section 71 (*now 82*) (*1*) the following be added, namely:—

Provided that the value of the property or the amount secured, as the case may be, is not less than 5,000 rupees.

[*Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

396. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "area to which this Act applies" be substituted for the words "Calcutta Municipality," in lines 4 and 5 of clause 71 (*now 82*) (*1*).

He said :—

"Sir,—The object of this amendment is to make the clause applicable to all the contracts that come under the operation of this law from time to time. If we were to leave it as it stands, we could not apply it to any areas that will be subsequently added to Calcutta. I do not take it that the cry, *delenda est carthago*, shall apply to Calcutta alone and not to those inscrutably favoured tracts that would come in later and which would, in the meantime, go on enjoying benefits and advantages, like being entitled to 15 per cent. extra compensation on compulsory acquisition, even when they do come in. If legitimate effect is to be given to the operations of this clause, I think words, somewhat on the lines that I suggest, ought to come in. I do not know how property-owners outside Calcutta would regard this. I am afraid my friend, Rai Sita Nath Ray Bahadur, would not like it very much, but I feel bound to draw the attention to this seeming omission. When we have a Greater Calcutta, as we are sure to have soon, if the Trust does its work well, this clause ought to have operation in old Calcutta and new Calcutta as well."

The Hon'ble MR. WHEELER said :—

"The object of this clause was to tax property in Calcutta, and there was no intention of taxing property, as such, outside it. Neither can there be any justification for so doing. It is in Calcutta that the evils have originated which we are seeking to remedy, and if it is the defects of Calcutta which require to be removed, it would certainly not be popular to extend the consequent charge upon the transfer of property outside the city. It is not very obvious, moreover, that the Act, as a whole, will be extended anywhere outside Calcutta. Certain sections may be extended, but that will be for special reasons in each case."

The motion was then put and lost.

397. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and in the case of agreements in respect thereof, entered into after the commencement of this Act" be inserted after the words "commencement of this Act," in line 5 of clause 71 (*now 82*) (*1*).

He said :—

"By this amendment, Sir, I desire to restrict the operation of this clause only for a short time and in a partial degree. Where there are pending contracts for transfers, I seek to exclude them from the operation of the clause. Let us be content with taxing transfers that come into existence after the Act comes into operation. Subsisting enforceable contracts alone are sought to be exempted and they cannot be difficult of proof in the same way as such jute contracts would be. In fact, as there would be a regular written instrument of agreement in each case, it would be capable of more satisfactory proofs than in the case of the existing jute contracts. I desire to enlarge the exemption only very slightly."

The Hon'ble MR. WHEELER said :—

"Sir,—We are only seeking to take into account documents executed after the Act comes into force. It is difficult to see how any fact can be satisfactorily established except the date of execution. It would be impossible to establish when the document was entered into without detailed, and probably controversial, inquiries, and I do not think the clause is likely to occasion hardship. The amendment would leave the incidence of the taxation undesirably vague, and it should be opposed."

The motion was then put and lost.

[*Rai Sita Nath Ray Bahadur; Babu Bhupendra Nath Basu; Mr. Wheeler.*]

398. The Hon'ble Rai Sita Nath Ray Bahadur moved that the word "one *per centum*" be substituted for the words "two *per centum*," in line 6 of clause 71 (*now 82*) (*1*).

He said:—

"After the expression of opinion by the Hon'ble Mr. Wheeler on the previous amendment, I do not like to press my amendment."

The motion was then, by leave of the President, withdrawn.

In the absence of the mover, the following motion was not put:—

399. The Hon'ble Maulvi Saivid Muhammad Fakhr-ud-din to move that the words "one *per centum*" be substituted for the words "two *per centum*," in line 6 of clause 71 (*now 82*) (*1*)

400. The Hon'ble Babu Bhupendra Nath Basu moved that the words "by one *per centum*, or, if the value exceeds Rs. 10,000, then by two *per centum*" be substituted for the words "by two *per centum*," in line 6 of clause 71 (*now 82*) (*1*).

He said:—

"After the fate of my previous amendment I will be unwilling to put it. I believe that at some future moment the attitude that we have taken to-day may be justified, and in that view I move this amendment, that in cases in which the value is less than Rs. 10,000, the taxation should be 1 per cent., following the precedent of the collection duties and income-tax."

The Hon'ble Mr. Wheeler said:—

"I would oppose the amendment for the reasons already given. The property owners in Calcutta do not belong to that class of paupers to whom exemption is occasionally granted, say, from a chaukidari assessment or municipal taxation. The mere fact that they own property at all shows that they are not destitute. As I have already said, in the case of small properties, the amount taken will be very small, and it should not occasion hardship to any one to pay it."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

401. If Motion No. 389 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "or (in the case of an usufructuary mortgage) on the amount secured by the instrument," in lines 7 and 8 of clause 71(*1*) [*now 82(1)*], be omitted.

402. If Motion No. 390 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or (in the case of a lease) on the rent secured by the instrument" be inserted after the word "instrument," in line 8 of clause 71(*1*) [*now 82(1)*].

Clause 71 (now 82) (1a).

403. If Motion No. 396 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "area to which this Act applies" be substituted for the words "Calcutta Municipality" in sub-clauses (*a*) and (*b*) of clause 71 (*now 82*) (*1a*).

[*Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari; Mr. Bompas.*]

Clause 72 (now 83) (1).

404. The Hon'ble Rai Sita Nath Ray Bahadur moved that after the words "the Calcutta Municipality," in line 2 of clause 72 (*now 83*) (*1*), the following be inserted, namely:—

> the Cossipur-Chitpur Municipality, the Dum-Dum Municipality, the Manicktola Municipality.

405. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after the words "the Howrah Municipality," in lines 2 and 3 of clause 72 (*now 83*) (*1*), the following be inserted, namely:—

> or any station in the neighbourhood of Calcutta within five miles from Government House.

The two motions above were discussed together.

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"What I wish to say is that recently some stations have been opened under the above Municipalities, and it would be proper to add those words to the clause; otherwise persons alighting at those stations will be exempted from paying the tax."

The Hon'ble MR. BOMPAS said:—

"But no particular stations have been mentioned under these Municipalities."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"There is the Pattipukur station and the Dum-Dum station."

The Hon'ble MR. BOMPAS said:—

"But there is no station in the Manicktola Municipality nor in Cossipore-Chitpur: and there is no Dum-Dum Municipality. There are the two Municipalities of North and South Dum-Dum. However, I oppose this amendment. In the Select Committee we thought we ought to alter the clause so that it might include stations like Baliaghatta and Ballygunge within the Calcutta Municipality, and there are also stations on the Howrah side at which passengers to Calcutta alight. But it is obviously dangerous to extend it to the stations mentioned by the mover. Most of the passengers alighting at Dum-Dum do not intend to proceed to Calcutta and there is no reason why they should be taxed for the benefit of Calcutta."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, my amendment covers the same ground. If the amendment has erred in principle, it has done so in the distinguished company of the Hon'ble Rai Sita Nath Ray Bahadur. It has the merit of unpopularity as his amendment, but it has also the merit of novelty, in seeking to supplement the resources of the Trust. There are stations in the neighbourhood which are not within the Calcutta Municipality from which people walk to Calcutta, and although enterprising people like that who are prepared to undergo so much fatigue and loss of time to save a paltry half-an-anna, ought under other circumstances to be exempted, I do not see that when such vast interests are at stake, we ought to be so considerate with regard to them, and therefore I think that we ought to extend the area beyond what has been done."

[*Mr. Bompas, Babu Deba Prasad Sarbadhikari; Rai Sita Nath Ray Bahadur.*]

The Hon'ble MR. BOMPAS said :—

"Sir, this amendment is worse than the previous one. We have only to consider the Howrah side of the river; there are stations on that side within five miles of Government House which have no connection with Calcutta. On this proposal, a person travelling from Bourenh to Santragachi on the Bengal-Nagpur Railway would be taxed. That would be quite unreasonable."

The motions were then separately put and lost.

406. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after line 8 of clause 72 (*now 83*) (*1*) the following be inserted, namely :—

> Goods (other than jute) brought to or taken from any of the said stations or landing-places shall similarly pay a tax of half an anna per each hundred maunds which are charged at goods rates and are transmitted by the same consignor.

He said :—

"This is still more novel and unpopular, because I am seeking to tax goods other than jute that come into Calcutta and that add to the filth, dirt and discomforts of Calcutta. If people from outside have to pay, the goods on which profits are made chiefly by people outside Calcutta, and which certainly add to the insanitary conditions of Calcutta, should also contribute. This is a supplemental provision of which the Trust ought to be glad, and I hope the question of the poor man's food and necessaries will not come in when I ask for taxation on each hundred maunds. It will yield a considerable sum without anybody knowing anything about it, and cannot be as objectionable or inconvenient as the old-world *chowgi* that has been rightly banished."

The Hon'ble MR. BOMPAS said :—

"Sir, this amendment scarcely needs serious consideration, and I need not discuss it at length. And I am not sure whether I should not ask you to rule it out of order. Although this Legislature has power of taxation, it is after all a Subordinate Legislature and the taxes imposed here must form part of the imperial scheme. The position of the taxpayer would be a sorry one if he were liable to be taxed by independent authorities acting without reference to each other. Briefly we have not the power to impose any such tax without reference to the Government of India and the Hon'ble Member has given us no idea of what such a tax would yield or what interests it would affect."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"I beg to oppose it on the ground that the mercantile community is going to pay heavy taxes on jute, and it would not be fair to allow their other goods to be taxed again. Among those goods, there may be many of perishable nature, and it would not be judicious to detain them for taxation."

The motion was then put and lost.

Clause 72 (1) [now 83 (1)] provisos.

The Hon'ble MR. BOMPAS said :—

"With your permission, Sir, I will move amendment No. 408 first, and if it is carried, then it will be unnecessary to move 407."

408. The Hon'ble Mr. Bompas moved that the words "thirty miles" be substituted for the words "ten miles," in provisos (*a*) and (*b*) (*i*) of clause 72 (*now 83*).

He said :—

"Sir, in moving this amendment, I beg to point out that in the Bill as it was introduced in Council, persons coming from within a radius of thirty miles from Government House were exempted from taxation. In the Select Committee that exemption was reduced from thirty miles to ten miles. And I will briefly explain to the Council the cause which has led me to occupy the position of moving an amendment against the recommendations of the Select

Committee. The Select Committee consisted of five non-official members who were all residents of Calcutta and five officials. On one occasion, one of the official members was absent from illness, and therefore the five Calcutta members were in a majority in the Select Committee. From the beginning of the discussion of this Bill, one of the principal points at issue has been what proportion of the cost of improvement shall be borne by the Calcutta people.

"The representatives of Calcutta, headed by the Chamber of Commerce, have throughout represented that they had overwhelming claims on the purse of the general taxpayer, firstly, because Calcutta is the seat of Government, and secondly, because it is a centre of trade for the whole of Northern India. The Government of Bengal has throughout been sympathetic towards these claims of Calcutta, but the Government of India has maintained that the citizens of Calcutta should bear a fair share of the cost of the improvement of the town in which they reside, and the Secretary of State has been even more emphatic.

"When this clause (72 (*now 83*) came up for discussion, the non-officials were in a majority on the Select Committee and they at once seized on the chance of applying the sound business principle of making other people pay for you as much as you can and they reduced the radius of exemption from 30 miles to 10 miles.

"In favour of this, there is the plausible argument that the nearer a man lives to Calcutta, the more likely he is to visit the capital and benefit by its improvements. But this will not bear examination. The object of the Bill was to exclude suburban traffic from the tax. A man who lives at a distance from Calcutta may visit it once a year, and the tax of one anna will be unfelt by him; but the case is different directly you touch suburban traffic and people who pay constant and even daily visits to Calcutta. The framers of the Bill originally proposed a limit of 40 miles, but as this was found not to yield a sufficient income, it was reduced to 30 miles.

"To reduce the limit further to 10 miles means that you impose a tax of two lakhs a year on the inhabitants of the zone between 10 miles and 30 miles round Calcutta, and this tax is purely for the benefit of Calcutta. I hope that the representatives of the District Boards and Municipalities of the Presidency and Burdwan Divisions will tell us what their constituents think of this proposal.

"The tax, even if justifiable otherwise, would be a bad one, because it would be so unequal in its incidence. Take the case of the small clerk with a season ticket from Khardah. The least he can pay is As. 6 a month or Rs. 4-8 a year; if two members of the family work in Calcutta, they will pay a tax of Rs. 9 a year and this is more than a family of the same position residing in Calcutta would pay in extra taxation towards the Improvement Scheme. Such a tax would also fall heavily on the cultivators who bring in milk and vegetables in small quantities for sale and who do not stay in Calcutta at all.

"The effect which taxing suburban traffic may have on the railways has not been considered; it may lead to people alighting short of Calcutta or induce them to travel by river. I do not say that it may never be advisable to tax this suburban traffic; there is power in the Bill to reduce the limit below 30 miles, but at present such a tax appears, for the reasons which I have indicated to be unnecessary and inequitable. I have therefore no hesitation in moving that the 10 mile limit be raised to 30 miles."

The motion was put and agreed to.

Clause 72 (now 83) (1), proviso.

The following motion was, by leave of the President, withdrawn:—

407. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or goods" be inserted after the word "passengers," in line 1 of proviso (*a*) to clause 72 (*1*) [*now 83 (1)*].

[*Babu Deba Prasad Sarbadhikari.*]

409. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "**fifty**" be substituted for the word "ten", in line 3 of proviso (*a*) to clause 72 (*1*) [*now 83 (1)*].

He said:—

"Sir, I am not much in sympathy with the observations that fell from the Hon'ble Member in charge with regard to the last amendment which, however, has my warm support on merits. Because a non-official majority once only upon a time managed to score a point ought hardly to be a matter of grievance. The non-official majority was, however, clearly wrong on the only occasion it prevailed. My idea was to make the exemption larger, but in view of the fact that when those in charge of the Bill considered the question of the 40 miles limit they found that the results were quite as satisfactory as they desired and that the higher limit that I propose is neither necessary nor expedient: In view of that, I do not desire to press my amendment."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

410. The Hon'ble Rai Sita Nath Ray Bahadur to move that the word "twenty" be substituted for the word "ten," in line 3 of proviso (*a*) to clause 72 (*1*) [*now 83 1*)]

411. If Motion No. 410 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "fifteen" be substituted for the word "ten," in line 3 of proviso (*a*) to clause 72 (*1*) [*now 83 (1)*].

412. If Motion No. 409 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "fifty" be substituted for the word "ten," in line 3 of proviso (*b*) (*i*) to clause 72 (*1*) [*now 83 (1)*].

413. If Motion No. 410 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "twenty" be substituted for the word "ten," in line 3 of proviso (*b*) (*i*) to clause 72 (*1*) [*now 83 (1)*].

414. If Motion No. 411 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the word "fifteen" be substituted for the word "ten," in line 3 of proviso (*b*) (*i*) to clause 72 (*1*) [*now 83 (1)*].

415. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that after the words "ten miles," in line 3 of proviso (*b*) (*i*) to clause 72 (*1*) [*now 83 (1)*], the following be inserted, namely:—

or increase it to any distance not exceeding thirty miles.

416. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or goods" be inserted after the word "passengers" in both places in which it occurs, in line 4 of proviso (*b*) (*i*) to clause 72 (*1*) [*now 83 (1)*].

417. The Hon'ble Babu Bhupendra Nath Basu to move that the words "increase the said radius to any distance not exceeding thirty miles" be inserted after the word "India," in line 2 of proviso (*b*) (*ii*) to clause 72 (*1*) [*now 83 (1)*].

418. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or goods" be inserted after the word "passengers," in line 2 of proviso (*b*) (*iii*) to clause 72 (*1*) [*now 83 (1)*].

Clause 72 (2) [now 83 (2)].

419. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or freights" be inserted after the word "fares," in line 2 of clause 72 (*2*) [*now 83 (2)*].

[*Babu Deba Prasad Sarbadhikari; Mr. Stewart.*]

420. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or goods" be inserted after the word "passengers," in line 3 of clause 72 (*2*) [*now 83 2*).

Clause 72 (3) [now 83 (3)].

421. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "and goods" be inserted after the word "passengers," in line 5 of clause 72 (*3*) [*now 83 (3)*].

422. If Motion No. 406 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "or by which" be inserted after the words "by whom," in line 5 of clause 72 (*3*) [*now 83 (3)*]

Clause 73 (1) [now 84 (1)].

423. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "by sea," in line 2 of clause 73 (1) [*now 84 (1)*] be omitted.

He said:—

"Sir, I have had an opportunity of consulting the Hon'ble Members representing the Bengal Chamber of Commerce, and I am glad, Sir, to know that the matter has been very carefully considered The whole of the goods that I seek to have omitted does not represent I understand more than 3 per cent. of the total quantity. In view of that explanation, I do not desire to press this amendment."

The motion was then, by leave of the President, withdrawn

423A. The Hon'ble Mr. Stewart moved that at the end of clause 73 (*1*) *now 84 (1)*] the following be added, namely:—

Provided that the said duty shall not be levied or collected in respect of jute, whether raw or manufactured, exported under any contract which was made before the 15th day of August, 1911, and the existence of which was established to the satisfaction of the Customs Collector before the 15th day of September, 1911.

He said:—

"Sir, with regard to this amendment, I should perhaps explain for the information of those Hon'ble Members who are unacquainted with commercial procedure, that in the Calcutta export trades of jute and jute fabrics, particularly, perhaps, the latter, business is largely transacted under forward contracts which run some months ahead. If, therefore, this Bill becomes law with practically immediate effect, it will follow that a loss must be incurred by one of the parties to these forward contracts, commensurate with the amount of the tax leviable, and that party will undoubtedly be the Calcutta merchant shipper. The loss will certainly not be recoverable from the producer or seller, and though it is arguable that under the Tariff Act it might be possible to enforce it legally upon the consumers or buyers, any attempt to recover this tax from that direction will undoubtedly result in our Calcutta merchants losing their custom. I am quite sure that this is not the wish of Government; and I hope to have the support of all my non-official colleagues in my motion, though some of them have levelled occasional allegations of apparent apathy against us in regard to this Bill. It may be said that those concerned should have brought this point to the notice of Government at an earlier stage of the proceedings; but looking to the haze of uncertainty which has overhung the whole Bill for so long, they will perhaps hardly be blamed for having allowed their attention to be temporarily diverted from it to the requirements and routine of their daily business; and had they spoken earlier, they would undoubtedly have wanted much more. It was the original intention to ask that these provisions of the bill should not become operative until the Bill itself had been law for at least six months, whereas my present amendment has purposely been framed in the most moderate spirit with regard to business [illegible]

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Wheeler; Mr. Apcar.*]

been so framed as to entail the minimum of financial concessions on the part of Government. I therefore trust that it will prove acceptable to the Hon'ble Member in charge."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I shall readily respond to the appeal made by my friend the Hon'ble Mr. Stewart. Non-official members do not charge the members for the Chamber of Commerce with apathy, but they do feel that they are not getting all the assistance that they could reasonably expect from them. This amendment is somewhat on the same lines with that I tried to have introduced with regard to house property where we have existing obligations that we cannot get rid of, whether this Act is passed or not. Here, at all events, the exemption ought to apply. Of course, I failed with regard to house property, but I am sure having regard to the influential support that it has, that the present amendment will not fail with regard to contracts that are already existing with regard to jute."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I may say at once that my friend the Hon'ble Mr. Stewart is wrong when he says that we are not acquainted with the procedure adopted in regard to these contracts. These contracts come to our purview almost every day, and we know that a large number of forward contracts are always entered into in regard to jute; and as I think the financial aspect of the whole scheme will be so little affected by this concession, I do not think there is any difficulty in the way of Government accepting it."

The Hon'ble MR. WHEELER said—

"The amendment, Sir, is one which Government is willing to accept. The theory of the jute tax, from the beginning, was that it will be paid by the consumer. The interests of the sellers are theoretically protected by the provisions of section 10 of the Tariff Act of 1894, which enables them to add the duty now imposed to the price, in cases of forward contracts for the supply of jute subsequent to the date of the Bill, but it is represented that it would be difficult for firms to realize this additional charge in view of the fact that their business extends to many and distant parts of the world. Under all these circumstances, it seems equitable to exempt from the operation of the clause contracts entered into before the Bill was discussed, and I would advise the Council to accept the amendment."

The motion was then put and agreed to.

Clause 75 (2) [now 84 (2)].

The following motion was, by leave of the President, withdrawn:—

424. If Motion No. 423 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "authority collecting the duty" be substituted for the words "Customs Collector," in the last line of clause 75 (2) [*now 84 (2)*].

Clause 92 (1) [now 88 (1)].

425. The Hon'ble Mr. Apcar moved that the words "The Chairman of," in line 1 of clause 92 (*1*) [*now 88 (1)*], be omitted.

He said:—

"Your Honour, the reason for this amendment is that my hon'ble friend, the Chairman of the Calcutta Corporation, could not pay more than Rs. 1,000 on his own authority, and, as the Corporation will have to pay the money, I think it is only proper that it should be here stated that it is the

[*Mr. Wheeler; Mr. Apcar; Mr. Payne; the President; Mr. Bompas; Babu Bhupendra Nath Basu.*]

Corporation who will pay The Chairman will have to go to the Corporation to get authority, and, therefore, any call on the Chairman would have no effect at all. The amendment is intended to place this matter on a proper footing."

The Hon'ble MR. WHEELER said:—

"I think it is preferable that the Bill should remain as it is. I must confess that when we received the amendment we considered it to be largely of a verbal nature. If payment has to be made in accordance with this clause, I fail to see how it will not be legally incumbent upon the Chairman to pay. The Hon'ble Mr. Payne, from his experience of the working of the Municipality, has advised that the wording of the clause will present no difficulty."

The Hon'ble MR. APCAR said:—

"The reason of my amendment is that the Chairman is precluded from signing a cheque. It is the Corporation that will have to pay and the Secretary and Vice-Chairman will sign the cheque."

The Hon'ble MR. PAYNE said:—

"I do not understand why the Chairman cannot sign a cheque. I cannot understand Mr. Apcar's attitude that the Chairman cannot sign a cheque. The Chairman can sign a cheque for lakhs of rupees, so long as the budget is not exceeded."

The PRESIDENT said:—

"If he is directed to pay, he must do so. You will have the authority of the Act."

The Hon'ble MR. APCAR said:—

"This Act will not amend the Municipal Act, and it does not purport to do so."

The motion was then put and lost.

Clause 67A (3) [now 78 (3)].

The Hon'ble MR. BOMPAS said:—

"May I draw your attention, Sir, to amendment No. 369 which was left over from the meeting of the 19th August, 1911. It really failed with No. 350. And if the Hon'ble Member is to move it, I will oppose it."

The motion was put and lost.

Clause 92 (1) [now 88 (1).]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, my Motion No. 426 is the same as Mr. Apcar's No. 430. I had the privilege of reading his notes, and I think that it is due and proper that he should move and not I."

430. The Hon'ble Mr. Apcar then moved that the words "commencing on the first day of April, 1917" be inserted after the word "quarter," in line 2 of *clause 92 (1) [now 88 (1).]*

[*Mr. Apcar.*]

He said :—

"Sir, I hope that it will not be regarded that I wish in any way to disregard the very important announcement that was made by the Hon'ble Mr. Wheeler, Financial Secretary to Government, but I believe, at the same time, that I can submit certain representations which possibly were not present in the mind of those who framed the scheme of taxation in the first instance. I think that what I have to say will come as a revelation to nearly every Member of this Council It will be seen that the proposal that I make, if granted, will not in any degree curtail the operations of the Board, which was one of the fears that was expressed by the Hon'ble Member.

"The Corporation will be called upon to pay their contribution to the Trust from the passing of the Bill, that is to say, 2 *per cent.* to be levied in addition to the consolidated rate of 19½ per cent. now being collected by the Municipality for their ordinary administration, in the same way as the contributions from the other sources which provide the income of the Trust. I ask, on behalf of the Corporation, that they may be exempted from that contribution until 1st of April, 1917, that is to say, for a period of about six years. The request is not of a unique character. It will be sufficient if I give one instance: the London County Council were exempted under section 65 of the London County Council (Improvements) Act of 1899 from commencing their contribution to the Sinking Funds 'until after the expiration of seven years from the end of the financial year current on the passing of this Act.'

"The matter is of extreme importance to the Corporation and therefore to the public of Calcutta generally, because if the concession is granted, it will tide over a period when the income of the Corporation will be reduced, owing to demolitions of buildings by the Trust, and it will save the rate-payers of the present day from payments for the execution of works, the benefits of which will not be enjoyed for some time to come.

"Even if the payment of the contribution is postponed for the time I have mentioned, there will be no deficit in the revenue of the funds of the Trust (and in this I include all loan charges, that is, the interests and contributions to the Sinking Fund required for the repayment of loans). There are certain technical details involved, but I shall endeavour to place before the Council the grounds on which the Corporation rely as briefly as I can. I have pleasure in acknowledging that it is entirely based on calculations, which I believe have been circulated among Hon'ble Members, made by Babu Nilambar Mookerjee, Vice-Chairman of the Calcutta Corporation, to whose zeal and labour for many years past the public are indebted to a degree that they little realise. His figures may be tested, and I put them confidently forward as unassailable. I submitted them early in this year to the Hon'ble Member, the Secretary in the Financial and Municipal Departments of the Local Government. I wish it to be understood that my computations are based on factors most unfavourable to the Corporation.

"Two per cent. of our rates already amounts to Rs. 7 lakhs, and we expect the growth of our income to be sufficient, by the time which I have fixed for the commencement of our contribution, to enable us to pay to the Trust Rs. 5½ lakhs without increasing our present percentage of 19½. This is an additional reason why we ask for the concession, but I take 2 *per cent.* of the rates to amount to Rs. 5½ lakhs only, which is the lowest sum reserved under the Act as payable to the Trust. The stamp duties are estimated to yield Rs. 2 lakhs, but the Corporation must make good any deficit in the stamp duties under that amount; and if that estimate is exceeded, the Corporation, it should be observed, will not derive any advantage, the whole amount being predestined to go to the Trust.

"I, however, for my present purpose, place the charge on the Corporation, in the first instance, to be Rs. 7½ lakhs, as if the whole tax had failed, and the Corporation were burdened with their own contribution of Rs. 5½ lakhs, and had to make good the stamp duties, amounting to Rs. 2 lakhs. I compute the profits from lands, under clause 68 (*now 81*) of the Bill at the estimate of 3 lakhs put on it by the Government. I take the loan to be at 60 years and no more, and finally I exclude altogether the annual subvention by the Government of Rs. 1½ lakhs.

[*Mr. Apcar.*]

"Now the Government have estimated that Rs. 436 lakhs will be the total amount of the loans that will be required by the Trust. It is, of course, out of the question for this huge sum to be borrowed immediately on the passing of the Act, and I am assuming that these loans will be spread over ten years, that is to say, Rs. 43,60 000 will be borrowed annually which is a very fair, if not liberal, allowance, and therefore the first loan will be paid off in the 61st year, and the last in the 70th year. And I assume also that all contributions will continue to be paid for 60 years, as has been stipulated by the Secretary of State, and will cease after that year; and further, that the payment of interest as well as principal will be made out of the accumulations of the Sinking and Reserve Funds only, without any help from any other quarter. Then, taking the Sinking and Reserve Funds to be growing at the rate of 3 *per cent* only, and not at 3½ *per cent.* as calculated by the Government, the accumulation at the end of 60 years will amount to Rs. 5,80,89,877, which is the minimum accumulation of the Reserve and Sinking Funds at the end of the 60th year from the passing of the Act and, on the expiry of the 70th year, that is, after the payments of the interest have been made in full and after all the loans have from time to time been discharged on maturity, and on the supposition that the Trust will not have received the Corporation contribution of Rs. 7½ lakhs for six years, that is to say, for the period for which I ask the concession, there will remain in the 70th year an ultimate net surplus of Rs. 1,71,02,256.

"But if the stamp duties do not fail, and the Corporation are called upon to pay Rs. 5½ lakhs only, the stamp duties contributing, as is anticipated according to the estimate of Government, Rs. 2 lakhs annually from the passing of the Act, the accumulations at the end of 60 years will be Rs. 614 lakhs; and after all the liabilities have been discharged, that is to say, all the loans contracted and the interest in full, the net ultimate surplus available will be Rs. 2,56.80,638.

"It should be understood that these calculations are based on the basis that the suspension of the contribution by the Corporation, as has been proposed, whether of Rs. 7½ lakhs or of Rs. 5½ lakhs, will not in the least impair the discharge by the Trust of all the liabilities which, by the estimate of the Government, is likely to be incurred by the Trust in their current expenditure.

"I have covered the ground on which the application by the Corporation is based, and I am not concerned to go further; but I perhaps may add that it is calculated that the loans which it is proposed to borrow for periods of 60 years will be repaid on due date, from the 61st to the 70th year; but it, of course, will require the full period of the terms of the loans mentioned for the accumulations to mature to the amount I have stated. I already have indicated that in the calculations I am submitting no allowance has been made for any income that may be derived by the Board from reproductive works: no profit whatever even to cover loan charges has been taken into account. But from our experience in the Corporation, we have found that after six years, loan works bring into our funds sufficient to cover the cost of the maintenance of the work and a surplus of 5 per cent. which covers our loan charges, that is, charges made towards repayment of the loan. Adverse circumstances may arise which may prevent the loan works of the Board producing results equal to that of the Corporation; but surely profits may be depended upon after, say, 30 years. I will assume that they will be unable to produce 5 *per cent*, but only 2 *per cent.* after payment of maintenance. If they produce so much as only 2 *per cent* after 30 years, then the suspension of our contribution may be extended to 17 years, with the results I have shown.

"The Hon'ble Member, the Financial Secretary, has stated that the scheme of taxation has been arrived at as a whole and must be considered as a whole. It has been urged that the subvention of Rs. 1½ lakhs annually has been given by the Secretary of State on the condition that all the contributions shall be maintained without diminution according to the scheme. But may I suggest that the true financial position of this Board, which I have been able to disclose on the calculations of our Vice-Chairman,

were not appreciated. Has not the result of those calculations come as a surprise and a revelation? But putting this question aside for the moment, the calculation of the income of the Board was based on a contribution by the Corporation of Rs. 5½ lakhs as being the equivalent of 2 per cent. of their rates; but the equivalent of 2 per cent. will be Rs. 7 lakhs from the commencement on the Bill coming into force, if it is enacted. I venture to say it never occurred to the Secretary of State, or to any of the authorities who have been dealing with this subject, that from their initial payment the contribution by the Corporation would exceed by Rs. 1½ lakhs the amount mentioned in the scheme, nor that we may reasonably expect that in 20 years, their contribution will amount to be, not Rs. 5½ lakhs, but 12 lakhs. Is there any industry or any other source of income that can hold out any prospect such as the contribution by the Corporation? I submit these circumstances create a claim for consideration. And, after all, whatever happens, if there is any loss, the whole of it will fall upon the Corporation who are made responsible for the liabilities of the Board. I submit I have shown abundant—and I may say overwhelming—reasons for the concession which is sought, and I trust that in the interests of the rate-payers it will be granted."

The Hon'ble Mr. Wheeler said:—

"Sir, this is one of the various amendments which have for their object the postponement or the lightening of the burden which it is sought to cast upon the Calcutta Corporation. There is one amendment (No. 426) which would postpone the municipal contribution for five years; there is another (No 427) which in the alternative would reduce it to 1 per cent. for the first five years and thereafter 2 per cent.; there is still another (No. 429) which would reduce the contribution to 1 per cent. for the first ten years and thereafter 2 per cent.; and, lastly, there is another (No. 442) which would postpone it for five years unless, in the opinion of the Local Government, the finances of the Board render its payment imperative. The object of all these amendments is the same, and the argument upon which they are sought to be justified is that in the early years the working of the Trust will not require the full income which the Bill provides. It is the case that the revenue of the Trust from taxation, as also from the Imperial grant and the contribution from the Corporation, will accrue, as the Bill stands, from the outset, and it is of course obvious that the Trust will not be able to initiate improvements to the full extent at once. Its early operations must necessarily be on a small scale, and it must be some years before it gets in full working order. That, I understand, is the experience of Bombay. But this has been recognised in the Bill, and it is contemplated that whatever surplus may accumulate in these early years, shall be invested and applied to the service of whatever loans may be outstanding at the expiry of the 60 years for which it is at present intended that the scheme of taxation shall be in force. In this connection I should invite the attention of the Council to clause 128 (*2*) [*now 125* (*2*)] which contains provisions to that effect. It is obvious that there must be loans which will run beyond this period of 60 years, while it is not desired, if possible, to continue the scheme of taxation for longer than 60 years. The only other alternative would be an extension of the period of taxation, and I cannot believe that would be a popular alternative.

"Then it is said that, even if we have this object in view, we are providing too much, and it is possible to show by calculations, based on certain assumed rates of progress, that this is the case. I am not concerned to dispute the accuracy of these calculations, but the figures are entirely hypothetical and, I submit, proceed upon a false impression of the basis of the Bill. The figures that are in the Secretary of State's despatch are not absolutely final figures. The Bill is based upon the fact that there is scope for the improvement of Calcutta, that this work should be undertaken by a Trust specially created for the purpose, and that various sources of revenue should be placed at the disposal of the Trust throughout a term of years from which they can, to the best of their ability, undertake works of improvement of various specified kinds. If the revenues actually realised justify more extended operations, I cannot see why the Trust should not undertake them. If the income of the

Trust proves to be less in amount than is anticipated, work will have to be curtailed accordingly. I am not prepared to admit that the sum of Rs. 822 lakhs constitutes the utmost which can advantageously be spent upon the improvement of the town. We can usefully spend all that we can get, and if so, the value of any hypothetical calculations disappears.

It is, moreover, certain that if circumstances justify the relinquishment or suspension of any of the sources of revenue allotted to the Trust the first beneficiary will not be the Calcutta Corporation. I have already alluded to the point incidentally in connection with the remarks which I have made on the subject of the scheme of taxation generally, and I would only make a few other quotations as supplementary thereto. In a despatch of 1900 the Secretary of State observed, 'The cost of the improvements should fall on the City of Calcutta and adequate taxation should be imposed to meet it, primarily upon Calcutta and in the last resort upon the Province of Bengal.' The idea of Provincial taxation was subsequently dropped. When proposals were sent home in 1902, the Government of India only recommended the scheme (which was then contemplated to cost 478 lakhs only) 'in view of the undertaking that the Corporation shall discharge its full share of liabilities.' The Secretary of State then replied, as I have already quoted, that the Corporation should be required to make payments on a reasonable amount from the outset, but he added that the scheme before him 'seemed to be expressly based on the principle of exempting the Calcutta Municipality from any risk of having to increase its rate of taxation.' He held the opinion that 'if the Municipality for any reason is unwilling to bear a substantial portion of the new burden, it has all the less reason to expect to be relieved at the cost of the general tax-payer.' He also made the significant remark that 'the limitation of liabilities should not commence with the principal beneficiary.' In the analysis of the proposals which was published in 1905, the Hon'ble Members will find that the first general principle on which it was proposed to distribute the burden of the project was that 'an appreciable share of the immediate financial burden and complete financial reponsibility in the event of default on the part of the Trust must devolve upon the Corporation.' The present proposals regarding the contribution by the Corporation were put forward by the Government of Bengal after consideration of many other alternatives, and they recommended them as a fair solution of a difficult question. The Government of India endorsed the proposals as 'securing to the Trust a certain income of at least $7\frac{1}{2}$ lakhs per annum.' Obviously the intention was to secure this income from the outset. I have already read the orders of Lord Morley.

Now, do the present proposals go beyond the intention that the primary beneficiary under the Trust should bear a substantial portion of the burden? The Secretary of State's estimate was that the municipal contribution should be Rs. 5,40,000, and that it should share in the guarantee of a total estimated income of $7\frac{1}{2}$ lakhs from this source and the increased stamp duty on the transfer of property. The total estimated income is Rs. 22·4 lakhs; and even if the anticipated return from land (Rs. 3 lakhs) be excluded, we have Rs. 19·4 left; and I submit, Sir, that the share of the Corporation of this amount is by no means excessive.

My reasons for opposing these amendments are that we can utilise this money to advantage, and that it is unsafe at this stage to abandon it; and even if we are prepared to abandon any of the resources which we have taken in this Bill, the first source of revenue to be discarded will not be the municipal contribution. The town of Calcutta must be prepared to bear a fair share of the burden. If advantage is taken of the clause which permits of the reduction or remission of taxation (including the Municipal contribution) before some experience has been gained, and if it is held now that all the resources given to it will not be required by the Board, and if the proposal is submitted to the Secretary of State in this form, his answer will almost certainly be, 'I gave Rs. $1\frac{1}{2}$ lakhs for 60 years conditionally and reluctantly and if you do not require it—very well, I will take it away.'"

[*Babu Bhupendra Nath Basu.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, my friend, the Hon'ble Mr. Norman McLeod, has expressed a pious hope that I should be laid up with laryngitis. If I am not laid up, I am very near being laid up. One of our supporters, the Maharajadhiraja Bahadur of Burdwan, has been obliged to leave to our great regret owing to ill-health, and, having regard to the unequal combat in which we have been engaged, the failing ranks of our supporters scarcely contribute towards any encouragement in the fight we have been carrying on. But, apart from that I will assume all the arguments which my friend, the Hon'ble Mr. Wheeler, has advanced as correct. I will assume that the Corporation of Calcutta, which in the end must largely benefit, ought to be primarily responsible for the financial stability of this enterprise. That we shall assume and I readily concede that the Calcutta Corporation should not evade or avoid any responsibility that should attach to it;—by the Corporation of Calcutta I mean the rate-paying public of Calcutta. My friend says that he does not dispute the correctness of the figures which have been furnished to us by the Corporation in their report which embodies the Vice-Chairman's note on the subject. I think I am correct in making that statement. Well, if it is so, let us consider our position. Take from me your pound of flesh, but do not take from me more. Take from me as much as you want either for your needs or for your stability. Take from me as much as will make the improvement a success, but do not take from me what you do not want. It is like the fealty of a big landlord paying to him what is his due for his needs, but refusing to pay him what he only seeks for his extravagance, for I need not remind my friends that public bodies may be as extravagant if they have more than what they know to do with, as private individuals, and sometimes we have found that public bodies have been more extravagant. If this position is correct, what is it you propose to do? You propose to spend, as you show from your statement, the nett sum of 186 lakhs with your recoupment. Your gross total expenditure is 822 lakhs. You want money from the Corporation for two things: to provide your sinking fund, your reserve funds and your current expenditure. More than that you do not want. If I satisfy you that the various sources of revenue that you have provided are enough, including the contribution from the Corporation for this purpose, you certainly would not want more than that. The question which naturally arises is that between two contributing bodies—the jute trade and the Corporation, for instance, why should preference be given to the Corporation? Would it not be said as well, why should the jute trade go on paying from the beginning and the Corporation's contribution be deferred? That is a very reasonable argument to advance against me, and if I were not prepared to meet that argument, I should not be on my legs to argue the case before you. My hon'ble friend Mr. Payne, who was the Acting Chairman of the Corporation when this note was written has shown that the immediate effect of the opening of Harrison Road was a drop of nearly a lakh of rupees. The Acting Chairman said that he had raised the question of the fall in rates from the construction of Harrison Road, and from the Assessor's report he would see (I am reading from his report) that if one road in Calcutta like the Harrison Road entails a drop of a lakh of rupees, all these schemes will entail a bigger drop, so that for the first few years of the Trust's operations it is inevitable that the present Corporation will suffer and suffer heavily. Their rates will probably go down. Only a few minutes ago I was talking this matter over with a gentleman in the Council who has had a very long experience in the Corporation—the Hon'ble Mr. Greer. He also anticipates that there will be a very serious loss in revenue to the Corporation. Mr. Payne, who has had a very long experience in the Corporation, also anticipates the fall. That is one argument. It is an elementary principle in taxation that all taxations from which the future generations receive the benefits should be so distributed as to make the burden fall upon the present generation less heavily than upon the future.

"These are the two arguments that I advance against my friend. First of all, the present body of rate-payers will suffer; secondly, the present body

of rate-payers will not benefit by the improvement schemes that you are bringing into operation. These are important titles to preferential treatment, and there is another, and that is not the jute trade, not the terminal charges, not the Government of India, but the Corporation ultimately which will have to face the entire financial responsibility of the Trust. Are these not titles enough for a favourable consideration, if circumstances justify a favourable consideration?

"Now we come to the second head of my argument. Do circumstances justify this? Well, you will not require money at once to pay your loans. You will not in the first place require money. We have seen sometimes that the Government of Bengal and the Government of India make provision for budget expenditure which cannot be utilized or appropriated for your loans for the first ten years, and you will not be in a position to spend at once or within a short time any large sum of money.

"In the past during the year, in the arrangements between the Imperial Government and the Provincial Government, there used to be an allotment for provincial expenditure which could not be spent until towards the end when there was an extravagance in expenditure. You will not require the amount that you want to spend all at once. If you cannot, why do you want from us not only for your current expenditure—for your current expenditure is amply provided otherwise—why do you want the reserve funds and the sinking funds and the interest upon loans which are non-existent? You want from us to provide for your reserve funds and for your interests upon loans which have been contracted. Then why should you want? My friend says you may spend more. You may do so; but is it likely? I would not grudge it if more is needed. You must bear in mind that in future times, when the rate-payers of Calcutta derive the benefit of the improvements that you have brought about, they will not pay. Why do you make him pay who lives in slums and in congested parts, which I shall presently show in connection with another amendment, is not the result of the apathy, the indifference of the landlords, but as a result of indifference, apathy and ignorance of Government. Why do you make him pay this 2 *per cent.* for a purpose which is not urgent and for which the full benefit will be derived by future generations? What is the object of spreading the loans over a large number of years? Because you want to distribute the burden fairly and equitably. I am quite convinced that my friends would not be the persons to so distribute the burden of taxation as to make it fall inequitably or unjustly upon the present generation for the advantage of the future. The present generation of course must contribute, but they ought not to contribute more than that is due from them. I will not go into the figures which have been furnished by the Vice-Chairman of the Corporation, and which, so far as I can say, have not been controverted. My friend has given figures, and I desire to go into them for a few seconds in order to put before the Council the views of a member of the lay public. I do not profess to be a financier or accountant, nor a municipal corporator, nor its Vice-Chairman, but I place before you the views of the outside lay public, with whom I may identify myself. Take it that you raise the whole of your loan in the first ten years. Then you do not levy any contribution for the first six years from the Corporation, and begin to levy your contribution after the end of the sixth year. Even then, without the subvention from Government, you find that after paying your loans off in the seventieth year there is a surplus of Rs. 2,56,80,000. Well, we will take it that 43 lakhs are borrowed every year; we want to borrow in ten years one crore and 30 lakhs. As my friend will at once admit, we shall not be able to pay off the amount in less than 60 years and will borrow in ten years, commencing from the first year, and we shall begin to pay from the sixty-first year the loans that we borrow within the first ten years, and without the subvention we shall pay the whole of our loan on the seventieth year and will have in our hands a surplus of Rs 2,56,00,000, assuming that our reserve and sinking funds are multiplied at 3 *per cent.* My friend, the Hon'ble Mr. Wheeler, the Financial Secretary, has taken it at 3½ *per cent.*, which will leave us a larger balance. Therefore there is no fear. If there was any question of the slightest apprehension that this

[*Babu Deba Prasad Sarbadhikari.*]

remission to the Corporation would mean in the remotest degree some amount of instability of the financial position of the Trust, I should have been the last person to stand and urge this on behalf of the rate-paying public of Calcutta. I represent here not the Corporation. Though I am a Government nominee, I can certainly claim to be one of the rate-paying public of Calcutta and speak as a rate-payer of Calcutta. You have got this surplus at the end of the sixtieth year; added to this there is another element. The contribution of the Corporation has now been fixed at Rs. 5, 0,000 a year at 2 *per cent.* My friend, the Hon'ble Mr. Apcar, has shown that at the present moment the contribution would be 7 lakhs, if you take 2 per cent., which is also shown in the note the Corporation has submitted to the Government of Bengal. Well, if upon a contribution of Rs. 5,50,000 your surplus after payment of your duty and your interest is Rs. 2,56,00,000, though it will be much more than that on a contribution of 7 lakhs which you are likely to get, or you are sure to get at the present moment, how much more would it be? My friend the Hon'ble Mr. Wheeler would be able to tell us as my friend is much better qualified than I am to tell us, and I am quite sure he will give us those figures. I say that for the first few years the contribution may go back to Rs. 5,56,000, for there will be, as I said, a diminution in the revenue of the Corporation when the Trust begins its operations; but then after the Trust has had its operations completed, which I hope will be completed in the space of 15 years, there will be a very large rise in the assessable value of Calcutta. My friend, the Hon'ble Mr. Payne, will be able to enlighten us as to how much in every six years does the assessable value of Calcutta go up. I believe it goes up about 10 *per cent.* I do not know; it may be more, so that after 15 years you get a large revenue from the improvement, and you get a progressive rise in your rates—a rise in the amount, so that what will be felt as a hardship and burden to-day will not be felt at all by the future generations who are coming behind us, and we of the present day have to pay for the benefit of the futur without the future contributing by a single penny towards the cost at which these benefits will be secured. Is that a fair adjustment of taxation? I have no authority to speak on a question of financial administration; but I am quite sure the Chancellor of the Exchequer, who would have to rely upon popular support for his position in the Cabinet and who would have to consider as to how the impost that is seeking to introduce would affect the masses of the people with whom he is concerned, would certainly so distribute and adjust its burden that it will not be felt as a burden by any class of individual for any particular period. The claims of the rate-payers of the present day are very substantial and well founded. Why should they be made to pay for the benefit of the future, and why should not that be secured by an equitable distribution of the burden. My friend, the Hon'ble Mr. Apcar, has placed all the figures in a very minute and detailed examination of the financial operations of the Trust. I have ventured to place the same figures from the point of view of the outside lay public, but I believe, in the result, we coincide. If we do coincide, does my friend, the Hon'ble Mr. Wheeler, the Financial Member of the Government of Bengal, think that the Government at home will be so unreasonable as to insist upon a contribution, for a freedom from a great part of which the people have got a very good cause? I do not think that would be a proper assumption to make. I am quite confident that if we have made out a proper case, whoever may be the Secretary of State for India either Lord Morley or Lord Crewe, he would be willing to concede it. I accept the principle that my friend lays down, namely, that the people of Calcutta principally should bear the burden—a principle which I do not attempt or seek to shirk or evade. I am quite prepared to take that burden placed on my neck—but its weight must be according to my capacity, according to my interests in the Trust, according to the benefits that I am likely to receive thereunder, and those who will come after ought to bear the burden to the extent of the benefits they will receive, so that the burden may be equitably distributed."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"Sir, my amendment will practically cover the same ground, although with regard to *minutiæ* there may be some little difference. I would not like

to press it, however, as an independent amendment, having regard to the late stage of our proceedings, and I would not like to cover the same ground that has been elaborately covered by the Hon'ble Mr. Apcar and the Hon'ble Babu Bhupendra Nath Basu. The gruesome commodity, to which my friend has somewhat wantonly and unwarrantably alluded in the course of these debates, is said to be capable of being easily differentiated—the notorious 'pound of flesh.' We have been referred to clause 128 (*now 125*), sub-section '2', under which it would be possible to turn the Hon'ble Babu Bhupendra Nath Basu's pound of flesh into something more convenient and more lasting, that is, in the shape of investments. If we read clause 128 (*now 125*) with clause 129 (*now 127*), under which it is permissible for the capital account to borrow from the revenue account, we shall see with satisfaction that that is more illusory than it appears. In all matters of account the distinction between the revenue and capital account is maintained as rigidly as possible, and that must have been felt; otherwise there would have been no necessity for distinctly providing in clause 129 (*now 127*) that it shall be competent for one fund to borrow from another, although rightly enough there is no provision for one fund being indebted to the other. We find in clause 128 (*now 125*), sub-clause (2), a variety of things which have to be complied with before that profitable investment, that has been referred to by the Hon'ble Mr. Wheeler, will be possible. There must be in the first instance a closing balance of 1 lakh of rupees which, considering the gigantic nature of the operations, is not an unreasonable amount to insist on; but we have an exception created in clause 129 (*now 127*), and the second exception created is that it would be a matter of complete discretion to the Local Government. The investment cannot take place if the Local Government directs otherwise. We do not know what may be the contingencies that will arise, but those that do not participate in the present gain ought not to be called upon to pay what is not yet their share of the burden till the proper time has arrived. That is the whole essence of the contention embodied in these discussions. It has been argued that the present generation will have to pay their share of the contribution, although they will not derive the benefits from it, unless it be said that when the present generation passes away without discharging its obligations we shall not have anybody to fall back upon. I am very sorry that the Hon'ble Mr. Das is not here to-day to tell us stories about Magistrates directing the heirs of criminals to pay the fine that would have been imposed upon their fathers. Those that have been shown to incur the obligation are to be called upon to discharge that obligation, because it has been decided that Calcutta has to bear its share of the burden. Of course it will do it if it has to, but no facts have been stated and no arguments have been adduced to show that, so long as the work of the Board is not in anything like full swing, this obligation ought to be insisted on when it has not arisen."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"Sir, I know very well that I cannot add much to the argument so forcibly adduced by the previous speaker. My only object in speaking is to add to the intensity and volume of the opposition raised against the attempt to realise the full contribution of 2 *per cent.* from the Corporation during the first few years of the Trust. There is no doubt that during the earlier part of the operation of the Board the revenue of the Corporation will diminish to a very large extent on account of the acquisition and demolition of buildings as illustrated in the case of Harrison Road, where there was reduction in the assessment amounting to Rs. 9,50 0 followed by subsequent increase of Rs. 2,48,000. Under all these circumstances, unless the municipal contribution is suspended for the first five years or reduced to 1 *per cent.*, for the first ten years, a heavy burden will fall upon the present generation of rate-payers who will derive little or no benefit from the operation of the Trust. Moreover, it may be mentioned here that, during the first few years of the Trust, as the full amount of the loan of 4 crores and 36 lakhs would not be necessary, there would be no occasion for the payment of the full amount of 7 lakhs for interest and 1 lakhs for sinking fund, it will therefore be evident that the expenditure during the first few years would be considerably

less than 20 lakhs of rupees. The receipts from the other sources of revenue as provided in the Bill, with a contribution of 2 per cent. from the Corporation, would be more than enough to keep the Trust afloat. With the enormous falling off in the revenue of the Corporation on account of the wholesale demolition of buildings throughout the several quarters of the town, the result would be the payment of more than 2 per cent."

The Hon'ble Mr. Bompas said:—

"Sir, I should not have intervened in this discussion had it not been that the Hon'ble Mr. Apcar has raised a new point. He voices the views of the Corporation, and therefore every point raised by him and his supporters seems to me to need more attention than the views advanced by any private member.

"The point which was not dealt with by the Hon'ble Mr. Wheeler was the argument that the income of the Corporation would be diminished by the earlier operations of the Trust and that there its contribution should be on a smaller scale during those years. But this argument loses its force when we examine the way in which the contribution of the Corporation has been fixed.

"When the proposals first went home in 1903, it was intended that the Corporation should finance the Trust with the help of a tax on petroleum, and it was stipulated that the contribution should not exceed 6 lakhs in any year up to 1911, nor 12 lakhs after 1911. To this the Secretary of State objected that the Corporation should be required to make payments of a reasonable amount from the outset and should provide itself, before the initiation of the scheme, with such resources as will enable it to do so

"The Corporation is now asked to make a contribution which was estimated at $7\frac{1}{2}$ lakhs; in 1903 it was contemplated that its contribution might amount to 12 lakhs. The present sum was fixed in 1907 and was fixed after taking all the circumstances into consideration."

The Hon'ble Babu Bhupendra Nath Basu said:—

"If my hon'ble friend will pardon my interrupting him, this Rs. 7,50,000 has to be made up by the transfer duty and 2 per cent."

The Hon'ble Mr. Bompas said:—

"Certainly, but the two per cent. contribution is a great deal less than 12 lakhs, and in 1907 was less than 6 lakhs. As compared with the proposals of 1903, the present Bill is very favourable to the Corporation. The two *per cent.* grant with a minimum of $7\frac{1}{2}$ lakhs was arrived at as follows:—The Government of Bengal wrote in February 1907: 'under the scheme advanced by the Government of India the contributions from the Calcutta Corporation constitute an important item (Rs. 8,24,000) of the revenue which will be at the disposal of the Trust, and the suitability of this sum is therefore the primary point of importance for determination. . . . It must be borne in mind on the one hand that an immediate effect of the operations of the Trust may be a diminution of the resources of the Corporation, since property will be destroyed and will cease to pay rates: while their ultimate effect will be a considerable addition to the charges devolving upon the Corporation, which will presumably be responsible for the maintenance of the new roads, etc., once they are made over to it. The final net result upon the financial position of the Corporation it is difficult to forecast, and the process of recoupment from the enhanced rates assessed upon property of increased value must necessarily be gradual. It would also be unwise for the purpose of financing this scheme to take any action which would tend to cripple the efficiency of the Corporation.'

"Thus it appears that the fact that the rates of the Corporation may go down during the early years of the Trust was foreseen and allowed for in making the present arrangements which are so favourable to the Corporation.

[*Mr. Apcar*]

"It is unnecessary for me to go over the ground so fully covered by the Hon'ble Mr. Wheeler. It seems to me quite beside the mark to picture the Trust ending up with a balance of two crores of rupees. It has been impossible to foresee the exact nature of the works to be undertaken by the Trust or to estimate their cost. Certain revenues are to be placed at the disposal of the Trust, and it is to spend them to the best advantage. If at any time it has not need for so much money, its income would be at once reduced."

The Hon'ble MR. APCAR said:—

"Sir,—The previous speakers have covered the ground very satisfactorily, and they have left me very little to add. But I desire to emphasise this point more than any other, that when the income of the Corporation will be diminished the present rate-payers will be paying for the benefit of future generations, because on the lowest computation the surplus that will be remaining will be Rs. 1,71,00,000, after putting aside every possible chance. Then, from what the Board will be doing, our own municipal administration will be affected by the payment that we are called upon to make.

"The Hon'ble Member in charge of the Bill has pointed to certain reductions from the original scheme of the payment by the Corporation; but why were those reductions made? Presumably because the payments originally determined upon were found to be unnecessary; and even now, if it is found not to be necessary for us to pay so much as is now demanded, why should there be that call made upon us? Sir, it must be clearly understood what the position is. With the computation that Rs. 43,60,000 will be borrowed annually, and that amount cannot possibly be increased, if there is no failure of any duty, there will then be an accumulation of 5 crores and 80 lakhs, leaving a net surplus of Rs. 1,71,00,000, and if the stamp duty does not fail the Board gets 5½ lakhs from the Corporation and no more, and if the stamp duty realises 2 lakhs from now, there will then be an accumulation of Rs. 6,44,00,000, and then there will be an ultimate surplus of Rs. 2,50,00,000. This does not count as it is the excess from the 5½ lakhs which will be paid by the Corporation. But computed as that contribution, we shall be paying more than 5½ lakhs, so that the accumulations and the net surplus will be something enormous, and we in the present generation would be called upon to contribute nevertheless to increase and swell the ultimate surplus for the benefit of those who will be coming after. I do not know how many years the Trust is going to exist. Are they going to spend all this money in 20 years? It is evident that all needs have been quite sufficiently provided for, and that it is only fair that the allowance asked for should be made to the Corporation.

"I will not occupy the time of this Council any longer, and I submit that on principle, in fairness and justice, this claim which the Corporation make through me, to the Council, should be allowed."

A division was taken, with the following result:—

Ayes 13.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G Apcar.

Noes 28.

The Hon'ble Mr F. A Slacke, C.S.I., *Vice-President*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

[*Babu Bhupendra Nath Basu.*]

Ayes 13—concld.	*Noes 28*—concld.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. B. K. Finnimore.
	The Hon'ble Mr. S. L. Maddox.
	The Hon'ble Mr. G. W. Kuchler.
The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. L. F. Morshead.
	The Hon'ble Mr. C. H. Bompas.
	The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. C. E. A. W. Oldham.
The Hon'ble Mr. K. B. Dutt.	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.
	The Hon'ble Mr. C. F. Payne.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Kumar Sheo Nandan Prasad Singh.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Lt.-Col. Grant Gordon, C.I.E.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr. F. H. Stewart.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
The Hon'ble Babu Bal Krishna Sahay	The Hon'ble Mr. T. R. Filgate.

The following Members were absent :—

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Babu Braj Kishor Prasad.

The result of the division was Ayes 13, Noes 28, and the motion was therefore lost.

The following motion was, by leave of the President, withdrawn :—

426. The Hon'ble Babu Bhupendra Nath Basu to move that the words "after the expiration of five years from the commencement of this Act" be inserted before the words "The Chairman," in line 1 of clause 92 (*1*) [*now 88 (1)*].

427. The Hon'ble Babu Bhupendra Nath Basu moved that the words "one quarter (or, after the expiration of five years from the commencement of this Act) one-half" be substituted for the words "one-half", in lines 3 and 4 of clause 92 (*1* [*now 88 (1)*]).

He said :—

"Sir, I simply move it without making any speech. I have suggested an alternative proposal that if amendments Nos. 426 and 430 be not carried, the words "one-quarter (or, after the expiration of five years from the commencement of this Act) one-half" be substituted for the words "one-half" in clause 92 (1) [*now 88 (1)*] At present we pay 2 per cent. The effect of this amendment will be that during the first five years we will have to pay 5 per cent. and again after 5 years we will have to pay 10 per cent."

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu.*]

The Hon'ble MR. WHEELER said:—

"I should oppose the amendment for the reasons which I have already urged."

The motion was then put and lost.

428. The Hon'ble Babu Deba Prasad Sarbadhikari moved—

(1) that the words "up to the year 1917" be substituted for the words "so long as the Board continue to exist", in line 3 of clause 92 (1) [*now 88 (1)*],

(2) that the word "half", in line 4 of clause 92 (1) [*now 88 (1)*] be omitted, and

(3) that the words "and thereafter at the rate of one-half *per cent.* per quarter so long as the Board continue to exist" be inserted after the word "quarter", in line 7 of clause 92 (1) [*now 88 (1)*].

He said:—

"Sir, I do not think it is necessary to say anything further in support of it than what I have said in connection with the other amendment. This will appear to be much less objectionable than the Hon'ble Mr. Apcar's. We propose to pay at a lesser rate up to 1917 and full rate after that period. That would meet the objection of the Hon'ble Member. The effect would be that, up to the year 1917, the payment will be at the rate of 1 per cent. instead of 2 *per cent.* After that the rate will be 1 *per cent.* and half so long as the Board will continue in existence. That will distribute the burden more equitably and will make the working of the Trust easy and possible. When the first outlay will have been provided for and the subsequent burden will be easier."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I do not clearly follow my friend's amendment. The Chairman of the Corporation shall pay from the municipal funds to the Board on the first day of each quarter, so long as the Board continue to exist, a sum equivalent to 1½ *per cent.* per quarter. This means 4 *per cent.*"

The Hon'ble MR. WHEELER said:—

"Whatever may be the intention of the Hon'ble Member the practical effect of his amendment is that the Municipal contribution would be made at the rate of 4 *per cent.* for the first five years and thereafter at 2 *per cent.* I scarcely think it is necessary to oppose it."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

429. The Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "one half *per cent.*", in lines 3 and 4 of clause 92 (1) [*now 88 (1)*], the following be substituted, namely:—

one-fourth *per cent.* for the first ten years, and thereafter one-half *per cent.*

431. The Hon'ble Babu Deba Prasad Sarbadhikari to move that proviso (*a*) to clause 92 (1) [*now 88 (1)*] be omitted.

432. If Motion No. 430 be carried, the Hon'ble Mr. Apcar to move that proviso (*b*) to clause 92 (1) [*now 88 (1)*] be omitted.

433. If Motions 430 and 432 be not carried, the Hon'ble Mr. Apcar to move that for proviso (*b*) to clause 92 (1) [*now 88 (1)*] the following be substituted, namely:—

(*b*) this sub-section shall not come into operation until the first day of April 1917.

434. The Hon'ble Babu Bhupendra Nath Basu to move that proviso (*b*) to clause 92 (1) [*now 88 (1)*] be omitted.

[*Mr. Apcar; Mr. Payne; Babu Bhupendra Nath Basu; Mr. Wheeler.*]

Clause 92 (2) [now 88 (2)].

435. The Hon'ble Babu Bhupendra Nath Basu, to move that clause 92 (2) [*now 88 2*)] be omitted.

436. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "after the year 1917" be inserted after the words "financial year", in line 1 of clause 92 (*2*) [*now 88* (*2*)].

437. If Motion No. 430 be carried, the Hon'ble Mr. Apcar to move that the words "after the year 1916-17" be inserted after the words "financial year", in line 1 of clause 92 (*2*) [*now 88* (*2*)].

438. If Motion No. 429 be carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "after the first ten years" be inserted after the words "financial year", in line 1 of clause 92 (*2*) [*now 88* (*2*)].

439. The Hon'ble Mr. Apcar moved that the words "the Chairman of," in line 3 of clause 92 (*2*) [*now 88* (*2*)], be omitted.

The Hon'ble Mr. Apcar said:—

"I should like to say this. I did not hear it, but I have been informed that the Hon'ble Mr. Payne said that the Chairman did sign cheques, but under section 112 of the Calcutta Municipal Act it is distinctly reserved only for the Secretary and the Vice-Chairman to sign cheques."

The Hon'ble Mr. Payne said:

"They are not the only authorities to sign cheques. I am afraid the Hon'ble Mr. Apcar has not read the whole of the section."

The Hon'ble Mr. Apcar said:—

"Sir, nowhere in the Municipal Act is the Chairman authorized to sign a cheque. However, I will not press this as I shall not gain anything by doing so."

The motion was then, by leave of the President, withdrawn.

440. The Hon'ble Babu Bhupendra Nath Basu moved that to sub-clause (*2*) the following be added, namely:—

> Provided that this sub-section shall not apply until after the expiration of five years from the commencement of this Act

He said:—

"Sir, I had been contending that the contribution for the first five years would have been necessary. There is a provision 92 (*2*) [*now 88* (*2*)] which says that if the contribution from the Corporation *plus* the receipt of the stamp duty does not amount to 7½ lakhs, the Chairman shall make good the deficit. I have tried to establish that this large sum would not be necessary for the first few years of the Trust, so that the present amendment that I seek to move has this object in view, namely, that for the first five years you should be contents with your 2 *per cent. plus* the receipt of the stamp duty without throwing the additional burden upon the Corporation. It will only be a relief to the well-deserving rate-paying public of Calcutta."

The Hon'ble Mr. Wheeler said:—

"This is a small variation of the amendment which has already been rejected by the Council. It would have the effect of postponing the guarantee for a period of five years. I do not think any such concession is called for, especially if it is the case that there is very little likelihood that the guarantee will ever require to be enforced."

The motion was then put and lost.

[*Mr. Apcar; Mr. Wheeler.*]

The following motion was, by leave of the President, withdrawn :—

441. If Motions 435 and 440 be not carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "six lakhs" be substituted for the words "seven and-a-half lakhs", in lines 3, 5 and 6 of clause 92 (*2*) [*now 88 (2)*].

Clause 92 (4) [now 88 (4)].

441A. The Hon'ble Mr. Apcar moved that the words "but not exceeding 15 *per cent.*" be added at the end of clause 92 (*4*) [*now 88 (4)*].

He said :—

"Sir, there is no limit in this clause. I want to put in 'not exceeding 15 *per cent.*' The general rate is 13 *per cent.*, and I think that there ought to be a *maximum* limit placed, and there is ample margin allowed. I would, therefore, ask the Council to accept 15 *per cent.* as the stated maximum."

The Hon'ble MR. WHEELER said :—

"I cannot see any reason for accepting the amendment. At present the maximum of the general rate is 13 *per cent.* The amendment seeks to ensure that not more than 15 *per cent.* should ever be levied. It is not desirable to impose any absolute limit in this Bill. We may readily hope that it will not be necessary to raise the general rate beyond 15 *per cent.*, but if the liabilities of the Corporation cannot be met without doing so, the rates must be raised. My answer is that the merits of the demand for a contribution from the Calcutta Corporation rest on grounds which do not give any basis for an arbitrary maximum of this description."

The motion was then put and lost.

Clause 92 (now 88), new sub-clause (5).

442. The Hon'ble Mr. Apcar moved that after clause 92 (*4*), the following be inserted, namely :—

(*5*) Notwithstanding anything hereinbefore contained, the contribution from the Corporation shall not be payable until the first day of April, 1917, unless, in the opinion of the Local Government, the finances of the Board render its payment imperative.

He said :—

"Sir, here it will be observed that the matter is placed in the hands of Government, and I think that if this contribution is to be exacted, at all events let it be in the form that is here proposed."

The Hon'ble MR. WHEELER said :—

"This is in one sense the reverse of what we have introduced in the Bill. We have it in the Bill that the contribution shall be levied unless, under clause 194, the Local Government chooses to suspend it. I think that the wording of the Bill is eminently preferable."

The motion was then put and lost.

443. The Hon'ble Mr. Apcar moved that after clause 92 (*4*) [*now 88 (4)*], the following be inserted, namely :—

(*5*) Notwithstanding anything hereinbefore contained, the contribution from the Corporation shall, until the first day of April, 1917, be one quarter *per cent.*, in lieu of one-half *per cent.* per quarter on the annual rateable valuation referred to in sub-section (*1*).

He said :—

"Sir, this is reducing the payment by 1 *per cent.* instead of 2 *per cent.* until the first day of April, 1917."

[*The President; Mr. Apcar; Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

The PRESIDENT said:—

"That has practically been decided."

The Hon'ble MR. APCAR said:—

"If Your Honour thinks it has, I have nothing more to say."

The motion was then, by leave of the President, withdrawn.

Clause 96 (now 89).

444. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "(not being less than sixty years)" be inserted after the word "period," in line 2 of clause 96 (*now 89*).

He said:—

"This is somewhat a difficult financial question regarding which there may be difference of opinion. Unless it is accepted as a reasonable safeguard for the matter of taking loans, I do not wish to press it."

The Hon'ble MR. WHEELER said:—

"I submit, Sir, that it is not desirable to insert a rigid minimum period of 60 years in the Bill. In the course of the discussion of the Bill, it has been assumed that the loans raised will ordinarily be for 60 years, but circumstances might render a variation desirable, and each case should be judged on its own merits. As the Bill stands, these things would be decided by the Local Government and the Government of India, and the elasticity thus allowed is preferable to the specification of a definite minimum."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, I do not wish to press it."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

445. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "previously," in clause 96 (*b*) [*now 89 (b)*], be omitted.

Clause 99 (now 91).

446. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "not exceeding the rate approved under section 96" be added at the end of clause 99 (*now 91*).

He said:—

"Here, Sir, in clause 99 (*now 91*), I desire to have the rate of interest limited to what has been, or may have been, sanctioned under clause 96, even with regard to short loans such as are contemplated by clause 99 (*now 91*). It ought not to be open to the Trust to raise money from the Bank, at an indefinite rate, and therefore I seek to bring in words the effect of which will be that the rate will be governed by what may have been sanctioned by Government under clause 96."

The Hon'ble MR. WHEELER said:—

"The object of clause 99 (*now 91*), Sir, is to provide for a case that may arise in which, although the Board has received permission to float a loan, it is not immediately desirable to put it upon the market. In that event, temporary accommodation may be sought from a Bank. If the amendment were accepted, it would have the effect of requiring that the interest on a temporary overdraft shall in no circumstances be greater than on a loan for

60 years. But the two things are in no way comparable, and they are not governed by similar considerations. The amendment seems to be based on a misapprehension, and I would oppose it."

The motion was then put and lost.

New clause 99A.

447. The Hon'ble Mr. Bompas moved that after clause 99 (*now 91*), the following be inserted, namely :—

Division of borrowed money to purposes other than those first approved

99A. When any sum of money has been borrowed under section 96 or section 99 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Local Government.

He said :—

"I have the honour to move this amendment which provides that funds raised for a particular purpose should not be devoted to any other purpose without the previous sanction of the Local Government. As the sanction of the Local Government is required for the raising of a loan for a certain purpose, it is desirable that the approval of the Local Government should be obtained if the money raised for that particular loan be diverted to some other purpose."

The motion was put and agreed to.

Clause 100 (now 93).

448. The Hon'ble Babu Bhupendra Nath Basu moved that the words "two other Trustees" be substituted for the words "one other Trustee," in clause 100 (1*a*) [*now 93 (2)*].

He said :—

"If my friend does not wish to accept this amendment, I would not move it. I thought it would be a protection if two Trustees would sign the debentures, as in the case of Municipal debentures."

The Hon'ble MR. WHEELER said :—

"It is the case that the Municipal debentures are signed by the Chairman and two Commissioners. The Bill says that the debentures of the Board shall be signed by the President and one Trustee. I do not think there is any reason to require more than this, and my impression is that we were told in Select Committee that in ordinary commercial practice the signature of two responsible officers of a company was considered to be sufficient."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"As my friend does not wish to accept this amendment, I would, with Your Honour's permission, withdraw it."

The motion was then, by leave of the President, withdrawn.

449. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and without any preference over loans of later dates taken from Banks under section 99 (*now 91*)" be added at the end of clause 100 (4) [*now 93 (5)*].

He said :—

"This I seek to bring in, Sir, in order that the Bank loans provided under clause 99 (*now 91*) may be on the same footing as the debentures. I think all the parties concerned ought to be on the same plane, and if that is accepted, the debenture-holders ought not to be preferentially treated from the Bank."

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu.*]

The Hon'ble MR. WHEELER said:—

"I submit, Sir, that the amendment is based upon some misapprehension. The clause merely provides that all debentures, for the purpose of suing in respect of them, shall rank *pari passu*, irrespective of their actual date. The amendment refers to the case of a temporary overdraft at a Bank, but I do not think that that is in any sense relevant."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"If there is any misapprehension with regard to the matter, I do not press it."

The motion was then, by leave of the President, withdrawn.

Clause 105 (now 98).

450. The Hon'ble Babu Bhupendra Nath Basu moved that to clause 105 (*now 98*) the following be added, namely:—

(*f*) by the purchase and cancellation of debentures issued under this Act.

He said:—

"Does my friend accept this suggestion of mine? I think it is a business-like suggestion that would be useful in the repayment of our loans."

The Hon'ble MR. WHEELER said:—

"The Hon'ble Member has raised a very difficult financial point, and I would strongly recommend the Council not to touch it on the present occasion. Clause 105 (*now 98*) deals with the permissible methods of the repayment of debt, and the manner in which that will ordinarily be done is by the establishment of a Sinking Fund. It is difficult to discuss rather complicated financial questions briefly, and I apologise if I indicate the general line of argument upon which this amendment is based in somewhat sketchy terms. The theory of a Sinking Fund is that the borrowing body sets apart each year a certain percentage of the outstanding loan, which is invested in securities and held in a Sinking Fund, which, if it is on a sound basis, will have matured, at the expiry of the currency of the loan, to the full amount originally borrowed. That amount will then be taken from the Sinking Fund and the loan will be discharged. Since, however, it is permissible to invest the Sinking Fund in the securities of the Board, it is argued by some people that there is no advantage in locking up such debentures in the Sinking Fund and paying interest to the Sinking Fund upon them, but that it is much simpler to cancel the debentures as they are bought up, and thereby wipe them out of existence. One advantage claimed for this procedure is that it would not then be necessary to resell the securities and incur commission charges when it was sought to realize the Sinking Fund. So far, the theory sounds simple, and it contemplates what is known as the procedure of a Loans Fund as contrasted with that of a Sinking Fund. But in practice various difficulties may arise. The theory of a Loans Fund would view the indebtedness of the Board as a whole. It would require that each year the Board should set apart a *percentage* of the loan which, multiplied by the number of years for which the loan will be current, will be equivalent to the whole of the loan. Thus, if the loan was for 50 years, 2 *per cent.* would be set aside annually. This sum would be devoted at the discretion of the Board, to buying up its debentures in the market, as they became available, after which they would be cancelled, and since under this theory the full amount of the loan is eventually paid to the Loans Fund, the total indebtedness of the Board must in the long run be discharged. But there is one difficulty in that it may not be always possible to invest the contribution to the Loans Fund, set aside in respect of a particular loan, in the debentures of that loan. They may be invested in the debentures of other loans, and it may thus happen that when the loan to be repaid falls in, very few of its debentures have been cancelled, and the Board would then have to re-borrow to discharge the greater part of the loan. It may not happen, in the

[*Babu Bhupendra Nath Basu; Mr. Wheeler; Mr. Bompas; Babu Deba Prasad Sarbadhikari.*]

conditions of the Indian money market, that this is always convenient. There is another difficulty as to whether it will always be possible to buy up the debentures of the Board at or below par, and it is also debateable what effect these purchases and cancellations will have upon the market value of the Board's debentures. Then, again, there is a somewhat controversial point as to how far it is permissible to invest the contributions to the Loans Fund in the debentures of new loans, that is to say, to utilise the Loans Fund for the avoidance of debt. I have touched upon these points in a very brief manner, but the amendment is probably the outcome of certain discussions which we have had recently with the Calcutta Corporation as to the amendment of the Calcutta Municipal Act as regards its Sinking Fund. It was then urged that the procedure of a Loans Fund should be introduced. The Local Government considered the question, and was of opinion that, in the circumstances of this country, it was not, for various reasons, desirable to do so; but we have referred the matter to the Government of India for an expression of opinion and in order that the views of other commercial centres, for instance, Bombay, may be ascertained Should the Government of India decide, as the outcome of that inquiry, that the procedure of a Loans Fund is suitable, the provisions of various Acts will be affected, and among them may be the present Bill. If so, there may be an occasion for an amendment hereafter, but for the present I would urge that it will be much better not to attempt to make this innovation in the Bill."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, I may remind my hon'ble friend that it is only an alternative suggestion. Of course, I leave it to my friend. If hereafter the procedure is sanctioned by the Government of India, the Trust will be in a position to adopt it."

The Hon'ble MR. WHEELER said:—

"If the amendment is inserted in its present form, it will be a dead letter, and would not completely attain the object in view. It would be necessary to add consequential provisions as to how the Loans Fund was to be dealt with, and regarding the position of the Trustees to the Sinking Fund. None of these details have yet been elaborated, and even assuming the soundness of the intention of the amendment, it would not be secured, even if it was accepted.

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"In that case I withdraw it."

The motion was then, by leave of the President, withdrawn.

The Hon'ble MR. BOMPAS said:—

"Sir, with your permission, I will move an amendment to this clause. I would move that the words 'subject to the provisions of section 128 (*now 125*), sub-section (*2*)' be inserted before the words 'by such,' in line 3 of clause 105 (*now 98*).

This clause (105) (*now 98*) provides the methods by which loans are to be repaid, and it is desirable that in clause 105 (*now 98*) there should be a mention of clause 128 (*now 125*), because clause 128 (*2*) (*now 125*) indicates the manner in which loans outstanding at the end of sixty years may be liquidated."

The motion was put and agreed to.

Clause 106 (now 101).

451. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "Bank of Bengal shares" be substituted for the words "debentures issued by the Board," in clause 106 (*d*) (*now 101*) (*d*).

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari Mr. Apcar.*]

He said:—

"Sir, this is a difficult matter, and I am not sure that I have followed the Honble Mr Wheeler and the Hon'ble Babu Bhupendra Nath Basu in their arguments. If what the Hon'ble Mr. Wheeler says is sound with regard to the amendment on clause 105 (*now 98*), sub-clause (*f*), moved by the Hon'ble Babu Bhupendra Nath Basu, the debentures issued by the Board would be a likely mode of investment of the money by the Board.

"Issue of debentures by the Board is allowed under section 106 (*now 101*) as one of the modes of investment. What the Hon'ble Babu Bhupendra Nath Basu wanted under clause 105 (*now 98*) to do, was to extinguish the loans by purchase and cancellation of debentures issued under this Act. Of course, belief in oneself is very healthful and reassuring. It reminds me of the great German general to whom a bullet-proof coat was brought by a would-be patentee. He straightaway ordered the artist to put it on and took his rifle up to test whether the coat was really bullet-proof or not. From that point of view, it would be an extremely reassuring thing for the Board to invest in its own debentures, which business-like bodies like the Bank of Bengal do not. The Bank of Bengal will not advance money on their shares, as that is forbidden by their rules. Taking, however, that it is desirable to extinguish as much as possible of the existing loan of the Board, by buying in their own debentures and thereby extinguishing them, I do not quite follow how the Hon'ble Babu Bhupendra Nath Basu's previous amendment was not acceptable. If, however, the objection to that obtains, objection against my amendment, if there is any, ought to disappear. I, therefore, move my amendment which provides for an alternative mode of investment."

The Hon'ble MR. WHEELER said:—

"Clause 106 (*now 101*) deals with the various forms of securities in which it is permissible to invest the Sinking Fund, among which are the debentures of the Board itself. It is, I believe, true that this is not in accordance with English practice, but the purchase of its own securities is allowed both to the Calcutta Corporation and to the Bombay Trust, and I can see no sufficient reason for refusing it in the case of the Calcutta Trust. The second part of the amendment, which permits investment in shares of the Bank of Bengal, seems to be undesirable, and I cannot support it. The general principle is that a Sinking Fund should only be invested in securities of public bodies, and it would be decidedly unusual to permit the purchase of Bank shares, the value of which may fluctuate considerably from time to time.

The motion was then put and lost.

Clause 108 (now 103).

452. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after clause 108 (*now 103*) (*d*) the following be inserted, namely:—

and

(*e*) the aggregate amount already paid into the sinking fund.

The Hon'ble MR. WHEELER said:—

"We accept this amendment with certain modifications, and I suggest that the motion should run:—

and

(*e*) the aggregate amount already paid into each sinking fund."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"That is a distinct improvement, Sir, and I accept it."

The motion was then put in the altered form and agreed to.

Clause 110 (now 106).

453. The Hon'ble Mr. Apcar moved that the words "the Chairman of," in line 1 of the third paragraph in clause 110 (*now 105*) (*1*) and in line 1 of clause 110 (*now 105*) (*2*), be omitted.

He said:—

"Sir, with regard to this, there is a strange misapprehension, because the law is perfectly clear, that only the Secretary and the Vice-Chairman sign a cheque. The hon'ble member, the late Deputy Chairman, said to an amendment I previously moved that I had not read the whole of the section, as an answer: the rest of the section reads that, it is only in the event of the sickness or absence of either of them that the Chairman can appoint anyone to sign in place of either of them. It seems strange to me that this matter should be pressed against me. I will submit it for the consideration of the Council."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment for the same reasons that I opposed a similar amendment. Somebody has got to pay this sum, and the Chairman will have legislative authority to do so when this Bill is passed. And there is another advantage, too, and that is, that if the Chairman fails to pay, you can get an order from the High Court to compel him to pay and ultimately you can put him into prison, but you cannot put the whole Corporation into prison."

The motion was then put and lost.

454. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and shall debit the same against the amount payable by the Corporation to the Board" be inserted at the end of line 12 of clause 110 (*now 105*) (*1*).

He said:—

"Sir, it appears to me necessary to put in these words, so that without any obscurity it may be at once indicated that the amount of money that may be paid in under this clause will be debited against the amount payable to the Board, in order to make the account quite clear and square."

The Hon'ble MR. BOMPAS said:—

"I resist this amendment, Sir. We now come to the guarantee clause. This guarantee is in addition to the income which the Trust will derive under the provisions of this Bill. The proposal of the Hon'ble Member is that there shall be no additional guarantee, but that if the Trust defaults, the Corporation may make an advance to the Trust and recover it out of the next yearly contribution. But it is necessary that the guarantee, of the Corporation to Government, should be a real and effective guarantee, as only on those terms will Government guarantee the Trust's loans to the public. If the amendment is carried, there will be no addition at all to the resources of the Trust.

The motion was then put and lost.

455. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 110 (*now 105*) (*2*) be omitted.

He said:—

"Sir, I am afraid it is far too large a measure to go down, and, therefore, I shall not take up the time by trying to fight such a hopeless battle at this time of the day."

The motion was then, by leave of the President, withdrawn.

456. The Hon'ble Rai Sita Nath Ray Bahadur moved that after the words "for that purpose," in line 5 of clause 110 (*now 105*) (*2*), the following be inserted, namely:—

after all the taxes leviable under this Act have been imposed to the full.

He said:—

"I do not propose the deletion of the clause. My proposal is quite simple."

[*Mr. Bompas; Mr. Apcar; Rai Sita Nath Ray Bahadur.*]

The Hon'ble MR. BOMPAS said:—

"I think the Hon'ble Member will be pleased to learn that I will accept it with certain modifications. I would propose that at the end of clause 110 (*now 105*) (*2*), the following be added, namely:—

Provided that no such increase shall be made unless the taxes imposed by sections 72 and 73 are levied at the maximum rates, respectively, prescribed by those sections.

I hope the Hon'ble Member will accept it."

The motion was then put in the altered form and agreed to.

Clause 111 (now 106).

457. The Hon'ble Mr. Apcar moved that the words "the Chairman of," in line 1 of clause 111, be omitted.

He said:—

"Sir, here we have got the same point. 'If the Chairman of the Corporation fails to make any payment, the Local Government may attach the Municipal funds or any of them.' Why should the Chairman be put in a position like that? Why should they depend on the Chairman failing to pay, when the Government might proceed directly? I cannot conceive why this extraordinary insistence is persisted in."

The Hon'ble MR. BOMPAS said:—

"Sir, as the other amendments of the same nature have been lost, I need not oppose it at length. But I do oppose it."

The motion was then put and lost.

The Hon'ble Mr. Bompas, with the permission of the President, moved that at the end of clause 111 (*now 106*), the following be added, namely:—

Provided that no such increase shall be made in consequence of any failure of the Chairman of the Corporation to make any payment as required by section 110, unless the taxes imposed by sections 72 and 73 are levied at the maximum rates, respectively, prescribed by those sections.

He said:—

"This follows the lines of the modified amendment No. 456 which has just been accepted."

The motion was put and agreed to.

Clause 112 (now 107).

458. The Hon'ble Mr. Apcar moved that the words "the Chairman of," in line 1 of clause 112 (*now 107*), be omitted.

The motion was put and lost.

Clause 113 (1) [now 108 (1)].

459. The Hon'ble Rai Sita Nath Ray Bahadur moved that for the words "The President," in line 1 of clause 113 (*1*) [*now 108 (1)*], the following be substituted, namely:—

A special committee of the Board, consisting of the President and three Trustees.

He said:—

"It is a very small matter In the Corporation the General Committee, and not the Chairman, prepare the Budget. I would suggest here that instead of the President, a special committee, consisting of two elected and one nominated member, should be appointed to prepare the Budget."

[*Mr. Wheeler; Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari.*]

The Hon'ble MR. WHEELER said:—

"The proposal, Sir, would render it obligatory to have a Budget Sub-Committee, and I doubt if this is necessary. Under clause 18 (*now 20*) the Board can always appoint a Budget Committee if it wishes to. The precedent of the Calcutta Corporation is not to the point, because the Chairman lays the estimate in the first instance before the General Committee and the latter frames the budget. This raises questions of the constitution of the Corporation, and it would be difficult, apart from this, for the Corporation to frame the budget, since the Corporation is a large body comprising 50 members; whereas the Trust is a very small body of 11 only. I think the provisions of clause 18 (*now 20*) are sufficient for practical purposes, and no special sub-committee is required. There is no such committee in Bombay."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"There is also a Budget Committee in the Corporation."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

460. The Hon'ble Babu Bhupendra Nath Basu to move that the words "not later than the tenth day" be inserted after the word "held," in line 1 of clause 113 (1) (*now 108 (1)*).

Clause 114 (now 109).

461. The Hon'ble Babu Bhupendra Nath Basu to move that the words "not later than the tenth day of March," be inserted after the word "same," in line 2 of clause 114 (*now 109*).

Clause 119 (now 114).

462. The Hon'ble Babu Deba Prasad Sarbadhikari to move that sub-clauses (*c*), (*d*) and (*e*) of clause 119 (*3*) [*now 114 (3)*] be omitted.

Clause 122 (now 116).

463. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "Local Government" be substituted for the word "Board," in line 2 of clause 122 (*now 116*) (*a*).

He said:—

"I think this is a necessary safeguard. The Board is already getting spoilt enough. It will legislate for itself; it will be a judge with regard to its own cases; it will be its own assessor and its own executive agency. It is not content with all this power; and it will also choose its bankers. I think in the matter of the choice of bankers, the approval of Government should be obtained."

The Hon'ble MR. WHEELER said:—

"We are prepared to accept this amendment."

The motion was then put and agreed to.

Clause 122A (now 117).

464. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "subject to the provisions of section 110," in line 1 of clause 122A (*now 117*) (*1*), be omitted.

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

The Hon'ble MR. BOMPAS said:—

"I will accept this amendment, Sir."

The motion was put and agreed to.

464A. The Hon'ble Mr. Bompas moved that the words "the account referred to in section 120" be substituted for the words "the said account," in clause 122A (*now 117*) (*1*).

He said:—

"This is only a verbal amendment, Sir. It sounds better as it is amended now."

The motion was put and agreed to.

Clause 123 (now 120).

465. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "includes" be substituted for the word "means," in line 2 of clause 123 (*1*) [*now 120 (1)*].

He said:—

"This is a matter which I leave to the department to consider. I am glad that our relations with the Hon'ble Members in charge of the Bill towards the end are slightly improving. They surely do not mean to limit the cost of the management to the item indicated. There may be many that will come in and 'includes' will be a safer word than 'means,' which would be a limiting word; 'includes' will be a permissive word."

The Hon'ble MR. WHEELER said:—

"We are advised that the wording of the Bill is preferable."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"My suggestion certainly makes the matter explicit. Anyhow, I do not wish to press it."

The motion was then, by leave of the President, withdrawn.

Clause 124 (now 121).

466. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "each general improvement scheme and each street scheme" be substituted for the words "each improvement scheme," in line 2 of clause 124 (*now 121*) (*2*).

He said:—

"Sir, I beg to move that the words 'each general improvement scheme and each street scheme' be substituted for the words 'each improvement scheme,' in sub-clause (2 of section 124 (*now 121*) (*2*), because improvement scheme may not include a street scheme."

The Hon'ble MR. WHEELER said:—

"The Hon'ble Member appears to have overlooked the definition of an improvement scheme in clause 2 (*d*) (*1*), [*now 2 f*)] which I think meets the object of the amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Then, Sir, I withdraw it."

The motion was then, by leave of the President, withdrawn.

[*Babu Deba Prasad Sarbadhikari ; Mr. Wheeler.*]

The following motions were, by leave of the President, withdrawn :—

Clause 125 (now 122).

467. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "except interest," in clause 125 (*now 122*) (*a*), be omitted.

468. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "(if any)", in line 1 of clause 125 (*now 122*) (*b*), be omitted.

Clause 127 (now 124).

469. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 127 (*now 124*) (*a*) be omitted.

Clause 134 (now 133).

470. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and report the same to the Local Government" be added at the end of clause 134 (*now 133*) (*a*).

The Hon'ble MR. WHEELER said :—

"We accept the amendment."

The motion was then put and agreed to.

471. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and send a copy thereof to the Local Government" be added at the end of clause 134 (*now 133*) (*c*).

He said :—

"On similar grounds I would ask Your Honour to put this amendment. It proceeds on the same lines."

The Hon'ble MR. WHEELER said :—

"The effect of the amendment is that the auditor would be required to send a copy of the audit report in all cases to the Local Government. We discussed the matter in the Select Committee, and we were of opinion that since the audit report was a document of a long and detailed nature, dealing with many petty items, there was no necessity of troubling the Local Government with it In Bombay a copy of the audit report is not sent to Government, nor is this the practice in the case of the Calcutta Corporation."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I think, Sir, I shall insist upon this as a very necessary safeguard, which I thought my friends would not have seen their way to resist. Here is a very peculiar position, and we are relying entirely upon the Local Government for all the safeguards that may be conceived under the circumstances, and that are allowed under the Act. I do not see why such a very reasonable proposal should not be accepted."

The motion was then put and lost.

Clause 136 (now 136).

472. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "with such rectification as may be possible" be inserted after the word "relates," in line 3 of clause 135 (*now 136*).

[*Mr. Wheeler; Babu Deba Prasad Sarbadhikari; Mr. Bompas.*]

The Hon'ble MR. WHEELER said:—

"This scarcely seems to be necessary, as the Board will have to publish their accounts in as correct a form as possible, and we must assume that the Board would not willingly publish accounts which they knew to be inaccurate."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

Clause 136 (now 137) (1).

473. If Motions Nos. 25 and 55 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "(*2a*) and (*2b*)" be substituted for the words "and (*2a*)", in clause 136 (*now 137*) (*1*).

474. If Motion No 56 or Motion No. 57 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "(*2a*) and (*2b*)" be substituted for the words "and (*2a*)," in clause 136 (*now 137*) (*1*).

Clause 136 (now 137) (2).

475. If Motion No. 130 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that clause 136 (*now 137*) (*2*) be omitted.

Clause 136 (now 137) (3).

476. If Motion No. 239 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 136 (*now 137*) (*3*) be omitted.

Clause 137 (now 138).

477. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associating members with" be substituted for the words "adding members to," in clause 137 (*b*) [*now 138 (a)*].

The Hon'ble MR. BOMPAS said:—

"I will accept it, Sir, and I will also ask the Hon'ble Member to move an amendment consequential to it."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Yes, it refers to clause 137 (*2*) (*b*) [*now 138 (2) (a)*]. I beg to add that it was an omission that escaped the lynx eye."

The Hon'ble Babu Deba Prasad Sarbadhikari then, with the permission of the President, moved that the words "associated with" be substituted for the words "added to" in clause 137 (*b1*) [*now 138 (2) (b)*].

Both motions were put and agreed to.

The following motions were, by leave of the President, withdrawn:—

478. If Motion No. 260 be carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "buildings" be substituted for the words "dwellings and shops," in clause 137(*e*) [*now 138 (g)*].

479. If Motion No. 262 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "for persons of the poorer and working classes" be inserted after the words "dwellings and shops," in clause 137 (*e*) [*now 138 (g)*].

Clause 142 (now 143).

480. The Hon'ble Babu Deba Prasad Sarbadhikari moved that for the words "Boards, with the rules, made under section 136 and section 137 printed thereon, or with printed copies of the said rules affixed thereto," in lines 1 to 3 of clause 142 (*now 143*), the following be substituted, namely:—

Copies of the rules made under section 136 and section 137.

[*Mr. Bompas; Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

The Hon'ble MR. BOMPAS said:—

"I will accept this amendment in a modified form. I should like to have it in the following form:—

that for the words 'Boards, with the rules made under section 136 and section 137 printed thereon, or with printed copies of the said rules affixed thereto, in English and Bengali', in lines 1 to 3 of clause 142 (*now 145*), the following be substituted, namely:—

Copies, in English and Bengali, of all rules made under section 136 or section 137."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir, this is a verbal amendment, and I put it in the form modified by the Hon'ble Member in charge. Yes, Sir, some such alteration is necessary; and then the whole thing would have a less wooden appearance. We do not want any boards with rules in the Board's office, to confuse us.

"Whatever commends itself to my friends on the opposite, will be acceptable to us, so long as they see the necessity for the change that I request."

The motion was put in the altered form and agreed to.

Clause 144 (now 145).

48. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and every member and officer and servant of the Tribunal" be inserted after the word "Board," in line 2 of clause 144 (*now 145*).

The Hon'ble MR. BOMPAS said:—

"I accept this amendment, Sir."

The motion was put and agreed to.

Clause 147 (now 149).

482. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "and credited to the capital account" be inserted after the word "disposal," in line 2 of clause 147 (*now 149*) (*1*) (*a*).

He said:—

"This is one of those necessary amendments that struck me. It is for my friends to consider whether they will have it or not. It is more or less verbal; something has to be done in the matter, and I suggest that it should be so provided that it may be credited to the capital account. However, it is for my friends opposite to consider."

The Hon'ble MR. WHEELER said:—

"The amendment seems to be rather out of place here. The question of what is debited to the capital account is dealt with in clause 126 (*a4*) [*now 123 (e)*], under which payments in pursuance of section 147, otherwise than for interest or for expenses of maintenance or working, are debited to capital. Under clause 128 (*a2*) [*now 125 (e)*] payments for working and maintenance charges are debited to revenue. The amendment would debit to capital any sums paid for interest on capital expended in connection with the improvement of the means of locomotion. Interest on the Board's loans is debitable to revenue, and these payments seem analogous in nature. I would prefer to leave the clause as it stands."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I do not wish to press it, Sir."

The motion was then, by leave of the President, withdrawn.

Clause 150 (now 151).

483. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 150 (*now 151*) be omitted.

[*Mr. Slacke; Babu Deba Prasad Sarbadhikari.*]

He said:—

"I wish to draw attention to the fact that in this clause there is no provision whatever as to what would happen if offences were to take place outside Calcutta. Jurisdiction is limited to the Presidency Magistrate, as also in the following clause. If I am in error in regard to that, I shall be glad to be corrected; and if I am not, it would be somewhat risky to provide for offences within Calcutta and to leave out the suburbs which are certainly a part of Municipal Calcutta. I do not know what the answer of my hon'ble friend is with regard to this. If it is intended that it is only with regard to where the jurisdiction of the Presidency Magistrate runs, it is provided for and it is not necessary in the case of outside suburbs. If that is not the intention, the best course would be to leave the two clauses and let the ordinary course of law take its course."

The Hon'ble MR. SLACKE said:—

"Sir,—As I understand the clause, it provides that offences against the provisions of the Bill, no matter where such offences are committed, shall be tried by a Presidency Magistrate, and I see no reason to alter the clause."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—If that can properly be done under the law as it stands, and in view of the opinion that has been submitted to this Council, I have nothing further to say. I have my doubts, and I have drawn the attention of the department to it; and in view of the explanation just given by the Vice-President of the Council, I do not wish to press it. This will govern the next amendment also."

The motion was then, by leave of the President, withdrawn.

The following motions were, by leave of the President, withdrawn:—

Clause 151 (now 152).

484. The Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "Presidency", in line 3 of clause 151 (*now 152*), be omitted.

Clause 152 (now 153).

485. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 152 (*now 153*) be omitted.

486. If Motion No. 485 be not carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the word "Presidency", in line 2 of clause 152 (*now 153*), be omitted.

Clause 154 (now 155).

487. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 154 (*now 155*) be omitted.

He said:—

"Sir,—I beg to move this amendment, because I think that with regard to important matters like this the jurisdiction of the civil court ought not to be ousted. When an officer does anything in good faith, what he is required to do under the Act, his safeguards in a Court of Law are ample and sufficient, and he requires no artificial safeguard of the type that this clause contemplates and no clear case for which has, so far as I know, been made out in the Statement of Objects and Reasons or elsewhere. We have not yet come to the definition portion of the Bill. When we do that, I shall have to move an amendment

with regard to what good faith is. But whatever that definition may ultimately turn out to be, successive rulings have made it quite and abundantly clear, that persons acting *bonâ fide* need have no fear if a reckless litigant happens to drag them into a court of law. The safeguard of a trial in open court when one's conduct is in question is to be welcomed rather than deprecated. It has its attendant costs and disadvantages no doubt. But the person recklessly rushing into court takes many risks if his claim is not well grounded, and if it is so, it is undesirable to preclude his redress by statutory enactment of this kind, simply because this Legislature is strong enough and is supposed to be competent to do so. Sir, this question was considered at length recently in connection with an important piece of legislation that this enlarged Council had to deal with. I refer to the Calcutta Police Bill. I pointed out then, and I feel it my duty to point out again, that whatever may be the differing views of things regarding the jurisdiction of this Council for amending Imperial Legislature Acts that affect this province, there is certainly more than doubt as to whether we, in this Council, in spite of the sanction of the Imperial Government recited in the preamble of the Bill, can in any way interfere with the jurisdiction of the High Court. There can be no question or doubt that this clause, so far as Calcutta proper is concerned, would be interfering with the jurisdiction of the High Court which has seizin, unless it is prevented, of all suits that the King-Emperor's subjects think fit to take to that Tribunal. The High Court is our usual shield of liberty, as it has always been, and will always be regarded in this country, and he is no friend of the country or the constitution that makes all possible and impossible on it. What case, I ask, has been made out for taking away or interfering with that jurisdiction? If I say the Board has acted *bonâ fide*, its officers and servants are perfectly immune without this artificial barrier between the people and their King's Court. Sir, there is, I know, a keen tendency in recent times to put a stop to these suits as much as possible, and unfortunately for us that endeavour has succeeded in the past. It has not yet had the test of efficiency and success in our courts, but if it is ever to be a question, and I hope and trust the occasion will never arise, I feel bound to say that I have serious doubts as to whether, in spite of our enactments, a proper suit will ever be shut out. I shall not say more, because the time at our disposal is very short; but this is a question upon which I feel very strongly, and I should have done less than my duty if I did not bring to the notice of the Council in some slight way the very serious objection to a clause like this."

The Hon'ble MR. SLACKE said:—

"I bring to the notice of the Council, Sir, that this is no new provision which has been inserted in the Bill. It is taken verbally from the Calcutta Municipal Act of 1899, and similar provisions will be found in other Acts anterior to that one. So the Hon'ble Member need not be afraid that it was specially introduced in this Bill. I would ask the Hon'ble Members to adopt this clause as it is worded."

The Hon'ble MR. K. B. DUTT said:—

"I associate myself with every single word which has fallen from my hon'ble friend, Babu Deba Prasad Sarbadhikari. I am aware, as I have no doubt that the Hon'ble Members are aware, that there is that provision in the Calcutta Municipal Act, and as far as my recollection goes I think it is also in the Bengal Municipal Act, but that is, I submit, absolutely no justification why a provision, which is now being introduced in the Reformed Council, should find place in a statute book. To my mind it seems that this clause practically invades the unlimited jurisdiction which the Civil Court exercises, and I have very grave doubts if this Council has really the power to introduce a clause like that which will interfere with an Imperial Act. However that may be, there can be no objection to omitting the provision from this Act, and I think it will have a very salutary effect with any one who is connected with the Trust. I have no doubt, Sir, that you have seen, and that other Members have seen, that this Act gives very large powers to those who will have to exercise

these powers. I do not for one single moment suggest that these powers are likely to be abused, but at the same time it would be desirable that those who are entrusted to exercise these very large powers will also be amenable to the Civil Courts of the country. With these observations, I fully support this amendment, and I consider that if the question is broached purely from convenience and also from necessity, I have not the slightest doubt that the Hon'ble Members will find their way to support the measure which will, on the one hand, enlist the sympathy of the people and, on the other, it will in no way interfere with its smooth working."

The Hon'ble Rai Baikuntha Nath Sen Bahadur said :—

"I beg also to submit that the protection which has been sought to be given to the Board and the officers and the servants of the Board is in pursuance of the principle which was first adopted in Act XVIII of 1850, which gives protection to judicial officers. This principle of protection was recognized and made applicable to the case of judicial officers for enabling them to act with independence in the discharge of their duties. If the judicial officers did not enjoy such protection their acts might be questioned, and they might be tried in the Court in the shape of suits against them. That would be largely detrimental to the judicial work. This principle has been adopted in the Calcutta Municipal Act, but I venture to submit that the protection ought not to be extended to the case of such an important body as the Board of Trustees constituted under the Calcutta Improvement Act. There should be a check against the abuse of the powers of the Board. I do not mean to say that abuse will take place, but still the withholding of this protection would be a sufficient safeguard against the vagaries of the members of the Board and its officers and servants. If the protection has been simply given to the members of the Board only, something might have been said in its favour, but the protection goes even to its officers and servants. Who knows of what degree of honesty or ability or capacity these officers and servants might be? I need not repeat the argument put forward by my hon'ble friend, Mr. Dutt, which deals with the jurisdiction of the Court. The right of an individual to sue is sought to be restricted, and the jurisdiction of the Court should not be encroached upon and taken away."

The Hon'ble Babu Mahendra Nath Ray said :—

"Sir, I am sorry, extremely sorry, that I do not share the apprehensions entertained by my hon'ble friends. This clause, as has been pointed out, is not a new feature in the Provincial Legislature. It does not, and cannot possibly, work any mischief and would not oust the jurisdiction of the Civil Courts. If, however, the officer concerned can prove, and I take it from the wording of this clause that the onus of proof will be upon him, that he had acted in good faith and with due care and attention, the jurisdiction of the Civil Court will cease. It will prevent vexatious litigation."

The Hon'ble Mr. Bompas said :—

"Sir, I am much obliged to the Hon'ble Babu Mahendra Nath Ray for coming to our assistance in this matter, for I was becoming rather daunted by the array of legal knowledge against this clause.

"I do not wish to argue this matter on high legal grounds, but I must say that the arguments of the supporters of the amendment seemed to be mutually destructive. They first argued that you were giving some unreasonable and nefarious protection to the officers of the Trust which would be detrimental to the public, and, secondly, that the clause, if not absolutely invalid, would be entirely infructuous and would not in the least affect the proceedings of the Courts. I am inclined to leave the matter there. The clause is taken from the Calcutta Municipal Act, and it seems to me that you are not giving a very dangerous amount of protection to a man if you say that a suit shall not be maintained against him if he has acted not only legally, but also in good faith and also with due care and attention."

[*Babu Deba Prasad Sarbadhikari; Babu Bhupendra Nath Basu; Mr. Bompas.*]

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"The Hon'ble Mr. Bompas is welcome to appropriate the strength of the Hon'ble Babu Mahendra Nath Ray's authority; but he will find that it is somewhat of a broken reed. I was following the Hon'ble Babu Mahendra Nath Ray with very great interest and attention, and I have not been able yet to make up my mind whether he was speaking on my side of the question or on the other. I wish I could share his roseate view, and could believe that when the matter went up to a court of law, the court of law would without difficulty accept his view. I should be very pleased if it did. So far as the mutually destructive character of the two criticisms referred to by the Hon'ble Mr. Bompas goes, all that I should like to say is this: if it has that effect, a Legislature seriously legislating ought to be very careful whether it should legislate anything so ineffective, as it has been enacted here according to the Hon'ble Babu Mahendra Nath Ray. I am afraid the Vice-President of the Council did not quite understand me, for I never suggested that it was a novel and new feature that we were first introducing, and our grievance was quite the other way, for we complain that we had been carving away steadily the rights and jurisdiction of the civil courts. If the municipal officer, the excise officer, the police officer and lastly the Improvement Trust officer, are all to have this immunity provided under the various Acts this Legislature passes, I emphatically say that it is not a healthy state of things and ought to be discountenanced."

The motion was then put and lost.

488. The Hon'ble Babu Bhupendra Nath Basu moved that the words "or the President of the Board or any Trustee" be inserted after the word "Board," in line 1 of clause 154 (*now 155*).

488A. The Hon'ble Mr. Bompas moved that the words "or any Trustee" be inserted after the word "Board," in line 1 of clause 154 (*now 155*).

The Hon'ble Mr. BOMPAS said:—

"I will accept amendment No. 488 if the words 'or any Trustee' only are inserted. The President is a Trustee, so it is unnecessary to refer to him separately. This comes under amendment 488A (above), which I was to have moved."

The motion was then, with the consent of the Hon'ble Babu Bhupendra Nath Basu, put in the form proposed by the Hon'ble Mr. Bompas, and agreed to.

488B. The Hon'ble Mr. Bompas moved that the words "or of the President" be inserted after the word "Board," where it first occurs in line 3 of clause 154 (*now 155*).

He said:—

"The amendment is much the same as has just been accepted by the Council. Any person acting for the Board or the President gets a somewhat vague protection if he is acting in good faith."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, there is only one thing that I wish to point out in connection with this amendment. In our definition we have defined the 'President' and the 'Trustees,' separately. 'President' means the President of the Board [clause 2(*h*)] and 'Trustee' means a member of the Board [clause 2(*j*)]. In clause 4 the definition disappears, where we say that the Board shall consist of 11 trustees. I wanted to bring this to the notice of the Hon'ble Member in charge."

The Hon'ble MR. BOMPAS said:—

"The President of the Board is a member of the Board and is a trustee."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir, what struck me was this: that the definition in clause 4 might be inconsistent."

[*Mr. Bompas; Babu Bhupendra Nath Basu; Rai Sita Nath Rai Bahadur; Mr. K. B. Dutt; Mr. Chapman.*]

The Hon'ble MR. BOMPAS said:—

"I doubt it. The President is a member of the Board under clause 4 and is one of the 11 trustees."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Then that is all right."

The motion was then put and agreed to.

489. The Hon'ble Rai Sita Nath Ray Bahadur moved that at the end of clause 154 (*now 155*) the following be inserted, namely:—

"but the *onus* of proving legality, good faith and due care and attention, shall lie on the defendant."

He said:—

"Sir, the amendment which I propose to move is, I believe, superfluous. The general practice in the Civil Court is that when a public servant is accused of acting in bad faith and without care and attention, the burden is on him to prove the contrary. This practice should also be followed in this Bill, and I do not see why these words should not be added at the end of clause 154 (*now 155*)."

The Hon'ble MR. K. B. DUTT said:—

"Sir, I support this amendment. I have no doubt, Sir, that you are fully aware that sometimes in a Court of Justice we have to depend to a very large extent, if I am permitted to say, on the whims of the judge before whom the case comes up. As this amendment proposes to do away with all these difficulties, I have no doubt that the Hon'ble Member in charge of the Bill will accept this amendment."

The Hon'ble MR. CHAPMAN said:—

"I think this amendment would be wrong in principle. The clause, as it stands, protects an officer only if he acts lawfully and in good faith and with due care and attention. The clause, as it stands, does not add any protection which the law does not provide already. The addition of this amendment would make this clause undesirable, because it would lay the onus of proof on the officer not only to show that he was acting lawfully, but also to prove that a lawful act was done by him in good faith. It would be going beyond every principle of law. The law requires that the onus of proving malice or negligence should lie upon the plaintiff."

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"To that I can reply that it is not the practice for the plaintiff to prove bad faith, but for the defendant to prove that he acted in good faith and lawfully."

The motion was then put and lost.

Clause 155 (now 156).

490. The Hon'ble Babu Bhupendra Nath Basu moved that the words "or the President of the Board" be inserted after the word "Board," in line 1 of clause 155 (*now 156, (1)*).

The Hon'ble MR. BOMPAS said:—

"This amendment is unnecessary, because the words 'any Trustee' include the President."

The motion was then, by leave of the President, withdrawn.

490A. The Hon'ble Mr. Bompas moved that the words "or of the President or of any officer or servant of the Board" be substituted for the words "or any of their officers or servants," in lines 3 and 5 of clause 155 *(now 156)*.

He said :—

"The clause as it stands will not protect a person acting under the direction of the President of the Board. The President of the Board is not a servant of the Board This amendment would make the clause complete, which I think is absolutely necessary."

The motion was put and agreed to.

New clause 155A.

491. The Hon'ble Mr. Apcar moved that after clause 155, the following be inserted, namely :—

"155A. The making of any order by the Local Government under this Act may be enforced under section 45 of the Specific Relief Act, 1877."

Power to compel Local Government to make orders.

The Hon'ble MR. BOMPAS said :—

"I will ask for your ruling, Sir, whether this amendment is in order. This involves an encroachment on the principle of an Act of the Supreme Council—the Specific Relief Act. The High Court of Calcutta, under that Act, cannot issue an order on the Local Government. Unless the Hon'ble Member has got the sanction of the Government of India in his pocket, I will ask you, Sir, to rule it out of order."

The Hon'ble MR. APCAR said :—

"Sir, it is only intended to give authority to the Local Government to apply to have their own order carried into effect. Of course, the matter affects the Government, and I leave it in your Honour's hands."

The Hon'ble MR. BOMPAS said :—

"We have entirely misapprehended the meaning of the clause. Section 45 of the Specific Relief Act confers on the High Court the power of '*mandamus*,' but sub-section (*f*) of that section says that it cannot issue an order on the Local Government."

The PRESIDENT said :—

"If it is not to apply compulsion to the Local Government I do not know what the amendment does attempt. It appears that on the face of it the meaning of the amendment is clear enough."

The Hon'ble MR. APCAR said :—

"Sir, it is to give authority to the Lieutenant-Governor to go to the High Court to compel the Board to do anything which he desires should be done in the public interests."

The Hon'ble MR. BOMPAS said :—

"Then I submit, Sir, that the amendment does not effect what the Hon'ble Member wants. As it stands, it certainly implies that the order is to issue against the Local Government. If the Hon'ble Member wants to move it, I will oppose it."

The Hon'ble MR. APCAR said :—

"Sir, as I have said, it is to give opportunity to the Local Government to have power to enforce its own orders. The amendment only follows English Statutes : that is all."

[*Babu Bhupendra Nath Basu; Mr. Bompas; the President; Babu Deba Prasad Sarbadhikari.*]*

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I believe a misapprehension arises from the wording of the amendment, which principally seems to indicate that it is a compulsion upon the Local Government."

The Hon'ble MR. BOMPAS said :—

"Whatever the meaning might have been in the Hon'ble Member's mind, the words, as they stand, must be taken I resist any alteration in the amendment at this stage."

The PRESIDENT said :—

"What the Hon'ble Mr. Bompas means is that is a way of compelling the Local Government."

The President ruled the motion to be out of order, on the ground that it was *ultra vires*, the sanction of His Excellency the Viceroy to its inclusion in the Bill not having been obtained.

Clause 157 (now 158).

492. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 157 (*now 158*) be omitted.

He said :—

"I seek the deletion of this clause, not because I do not wish the Police to have authority of the kind described here, but because I think the clause redundant. It was only the other day that we passed a very comprehensive—I was going to say encyclopædic—Police Act, under which my hon'ble friend, Mr. Halliday, would have power enough to deal with offences committed under any law. I do not happen to have the exact text of that law for the present, but I have excellent reasons to remember that the Police have under that Act long, strong and, I take it, willing enough arms to deal with offences under any of the law that may be in force for the time being. Therefore, this clause ought not to be enacted, being an unnecessary piece of legislation."

The Hon'ble MR. BOMPAS said :—

"Sir, the Hon'ble Member's only objection to this clause is that it is rather redundant, but I think that it might just as well stand. The Hon'ble Member says that his impression is that it is covered amply by the provisions of the Calcutta Police Act. He thinks that that is a sufficient answer. But this law will be extended to areas in which the Calcutta Police Act is not in force. He has said nothing to show us that under these circumstances it is redundant."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn :—

493. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 157 (*now 158*) (*3*) be omitted.

Clause 158 (now 159).

494. The Hon'ble Babu Bhupendra Nath Basu moved that the words "or (*b*) any officer or servant of the Board," in clause 158 (*now 159*) be omitted.

He said :—

"Does the Hon'ble Member in charge think this amendment necessary? If not, I do not press it."

The Hon'ble MR. BOMPAS said :—

"No, there does not seem to be any justification for the amendment. It has also a precedent in the Calcutta Municipal Act."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn :—

495. If Motion No. 494 be carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "in case (*a*)" and the words "and in case (*b*) by the said officer or servant," in clause 158 (*now 159*), be omitted.

Clause 159 (now 160).

496. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "associated with" be substituted for the words "added to," in line 1 of clause 159 (*now 160*) (*c*).

The motion was put and agreed to.

New clause 159A.

497. The Hon'ble Mr. Apcar moved that before clause 160 (*now 161*) the following be inserted, namely :—

"159A. Any person whose immoveable property is injuriously affected by the execution of any improvement scheme or re-housing scheme under this Act shall be entitled to obtain compensation in respect thereof from the Board."

Compensation to be paid for injury caused by execution of schemes.

He said :—

"Does the Hon'ble Member in charge accept this?"

The Hon'ble Mr. Bompas said :—

"No, I don't accept it."

The Hon'ble Mr. Apcar said :—

"Sir, the Hon'ble Member's opportunities are fast passing away, and I have thought that the Hon'ble Mr. Dutt's appeal to the sense of reasonableness, on the part of Government, might perhaps persuade the Hon'ble Member to accept this amendment. The present position is this: that if the property of any owner is acquired and there is injury done to any other property, then he can obtain compensation, but if no property of an owner is acquired, then, whatever injury may be done by the Board to his property, he has no claim to compensation, and the reason is that all the operations of the Board carried through under the authority of this Bill, when it becomes law, are lawful, and therefore there is indemnity given to the Board, so that it requires special legislation to enable an unfortunate owner whose property has been injuriously affected by the operation of the Board, to recover any compensation at all.

"By the Improvement Bill, the Land Acquisition Act is to be amended and altered on various points, but always entirely and consistently at the expense of the owners of property. I do not here question that policy. But it is not unreasonable to ask, if the operations of the Board actually injure and cause damage to the property of an individual, that he should be compensated. Under the Land Acquisition Act, section 23 (*1*) (*4*), compensation is given to an individual when any property of his is acquired, and any injury is done to any other property belonging to him: that is to say, a right of set-off is given, and I seek by this amendment to obtain a right for compensation in other cases. In England, under section 68 of the Land Clauses Act, the principle of which is expressly incorporated in the Town Planning Act of 1909, but on far wider terms, compensation is given whether or not any property has been taken. It is only in accordance with one's primary sense of justice that he should be conceded this right. If it is not expressly given by this Bill, he will not obtain it. The reason why a provision is necessary is because, as I have said, the Board will be indemnified for whatever they may do within the scope of their powers, for the reason that whatever loss or damage results, it will be from acts that have been made lawful by statutory powers that will be conferred on the Board. If only the Board keep themselves

within the powers conferred on them and their acts are done in a proper manner, even though special injury may be caused to a particular individual, he will have no right of action unless the right of compensation is expressly given by law. But even if the right of compensation is allowed, it should be understood, it will not be given in an unrestricted sense. It must be an injury that must have been caused by reason of what has been authorised by this law, and it must be an injury that would have been actionable but for the authority that will be given to the Board by the law. Supposing, for instance, the Board put up a building which interferes with an adjoining owner's light or prospect: he could have no right to compensation, except he had acquired an easement of light by law or under a contract.

"This proposal was rejected in Committee under a misconception of the position. The opinion prevailed that a right for compensation would be created owing to loss of custom or profit to a trader. Now, that is exactly what could not be done. The damage or loss must be an injury to land, and not a personal injury or an injury to trade. And it has been settled law for many years that the damage must be due to construction. Judgments of the House of Lords with reference to the Land Clauses Act and Railway Acts have placed it beyond question that the words 'injuriously affected' must be taken to mean the suffering of a legal injury or infringement of a legal right, which is not personal but incidental to the ownership of land, and that it must be due to construction and not to user. To take, as an instance, a reported case to which I shall apply a local illustration. If the Port Trust are the proprietors of a ferry and the East Indian Railway are authorised by law to build a bridge, with a footpath, the latter to be used by persons going to the station and also to other places, and the traffic of the ferry in consequence between certain ghâts falls off, and the Port Trust even have to abandon that particular trip: it was held in the case on which I have based my illustration that no compensation could be recovered, because the injury was due, not to the construction, but to the user of the bridge. The Port Trust would have no claim for the loss of their trade, because it would not be the construction of the bridge that had caused injury, for if the bridge had been built and not used, it would have done no harm. But if a ferry boat were injured by the piles of the bridge on the river, the Port Trust would have been compensated. I have endeavoured in some measure, helped by this illustration, to explain the principle on which the compensation under the amendment would be based.

"I think it is only fair when we find that this right of compensation is allowed in England, that it should not be shut out from us here, and there should be authority given to claim compensation when property is injuriously affected by the operations of the Board."

The Hon'ble MR. BOMPAS said:—

"Sir, I think I can convince the members of the Council, without any very recondite legal argument which I am quite unfit to undertake, that this amendment goes too far and could not possibly be placed upon the Statute Book. The scope of the amendment has been considerably modified by the insertion of the word 'immoveable' before 'property,' but even then it seems to be dangerous and impossible. If Hon'ble Members will look at clause 160 (*now 161*) of this Bill, they will see that persons will be entitled to get compensation from the Board. That clause entitles persons to claim compensation whenever they suffer any damage. If anyone suffers damage and is entitled under the ordinary law to claim compensation, he can sue the Board which is liable to pay damages like any private individual. But this proposed clause would make the Board liable where an ordinary individual would not be liable. Suppose that the Board makes a 60-foot road in a part of the town where there have been no broad roads before, it is probable that the frontages on the narrow 20-foot roads will decline in value But the Board should certainly not be made liable to pay compensation to the owners of the lands which have thus decreased in value. So, if the Board lays out a healthy suburb, the value of land in unhealthy suburbs may diminish. It seems to me impossible to justify a clause as wide as this and I oppose it."

[Babu Mahendra Nath Ray; Mr. Bompas; Babu Bhupendra Nath Basu; Mr. Apcar.]

The Hon'ble BABU MAHENDRA NATH RAY said:—

"From what the Hon'ble Member has just told us, I take it that he has no objection to a provision being inserted in the clause which will render the Board liable to pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers under this Act. He only objects to the rather sweeping amendment now before the Council. That being so, with the permission of the President of the Council, he may move that for the word 'may', in the second line of clause 160 (*now 161*), be substituted the word 'shall.'"

The Hon'ble MR. BOMPAS said:—

"That, I submit, is unnecessary."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"There is only one observation that I wish to make My friend, Mr. Bompas, is under some misapprehension. When the Trust opens out a 60-foot wide road, naturally shops would go to that road, and no compensation would be payable under the amendment.

"When you are laying a sewer pipe, you are making the level in good faith and you are doing it with due care, but if, for instance, the sewer is 20 feet deep and the foundations of my house would ordinarily be 6 feet deep, my house would be damaged."

The Hon'ble MR. BOMPAS said:—

"Then clause 160 (*now 161*) applies"

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"The Hon'ble Mr. Bompas says that clause 160 (*now 161*) applies, which makes it not obligatory on your part, but gives you the power. That is the difficulty. If the ordinary law would make it obligatory there would be no difficulty, but by the introduction of clause 154 (*now 155*) you limit your liability for an act which, if done lawfully and in good faith, nobody will charge you with having done without these safeguards. At the same time, in the very nature of things, your operations, however carefully conducted, may involve loss or damage to the property of some owner. Then, as my friend says, the clause that he quoted would give some relief, but that would be only a charitable relief. The danger that the Hon'ble Member in charge of the Bill apprehends is that people would be able to set up extravagant claims, but that is not the intention of Mr. Apcar's amendment."

The Hon'ble MR. APCAR said:—

"Sir, it must always be consolatory to the supporters of the Government to find a spokesman who is so quite sure about matters which he argues. Here we are told that this cannot possibly go on the Statute Book, and that it is dangerous and impossible, but I am not devising anything out of my inner conscience or imagination, for I am humbly following the law as it exists in England. I have taken this amendment from the Statute Law in England, and here I ask that the compensation be permitted for injury done owing to lawful acts which are indemnified, and no compensation would be admissible unless my amendment is allowed. The Hon'ble Member, as I understood him, has referred me to clause 160 (*now 161*), which provides that in any case the Board may pay reasonable compensation to any person who sustains damage. That is an authority given to settle a case That is all, but there is no authority or right to recover compensation which a person can claim in a Court of Law. I am not seeking anything beyond what is recognised law in England, and the incidents and illustrations which the Hon'ble Member in charge gives as sufficient to answer me, are exactly those which are not

[*Mr. Apcar.*]

permitted, because they are not matters attached to the land. You cannot bring a suit for compensation where there has been injury to trade or profit; that is settled law."

A division was then taken, with the following result:—

Ayes 12.	*Noes 28.*
The Hon'ble Babu Bhupendra Nath Basu ...	The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*
The Hon'ble Babu Deba Prasad Sarbadhikari	The Hon'ble Rai Kisori Lal Goswami, Bahadur.
The Hon'ble Mr J. G. Apcar.	The Hon'ble Mr R. T. Greer, C.S.I.
The Hon'ble Mr. Golam Hossein Cassim Ariff.	The Hon'ble Mr. D. J. Macpherson, C.I.E.
The Hon'ble Mr Abdullah-al-Mamun Suhrawardy.	The Hon'ble Mr. E. W. Collin.
The Hon'ble Babu Hrishikesh Laha.	The Hon'ble Mr. C. J. Stevenson-Moore.
The Hon'ble Mr. K. B Dutt.	The Hon'ble Mr. J. H. E. Garrett.
The Hon'ble Rai Sheo Shankar Sahay Bahadur.	The Hon'ble Mr T. Butler.
The Hon'ble Rai Baikuntha Nath Sen Bahadur.	The Hon'ble Mr. E P. Chapman.
The Hon'ble Babu Mahendra Nath Ray	The Hon'ble Mr. J. G. Cumming.
The Hon'ble Mr. Dip Narayan Singh.	The Hon'ble Mr. H Wheeler, C.I.E.
The Hon'ble Babu Bal Krishna Sahay.	The Hon'ble Mr. B. K. Finnimore
	The Hon'ble Mr S. L. Maddox.
	The Hon'ble Mr. G W. Kuhler
	The Hon'ble Mr L F. Morshead
	The Hon'ble Mr. C. H. Bompas
	The Hon'ble Mr. F. L Halliday, M.V.O., C.I.E
	The Hon'ble Mr C. E. A. W. Oldham.
	The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur
	The Hon'ble Mr. C. F. Payne.
	The Hon'ble Mr. H. J. Hilary.
	The Hon'ble Lt.-Col. Grant Gordon, C.I.E.
	The Hon'ble Maharaja Manindra Chandra Nandi.
	The Hon'ble Mr. Norman McLeod.
	The Hon'ble Mr F. H. Stewart.
	The Hon'ble Mr. W. J. Bradshaw.
	The Hon'ble Maulvi Saiyid Zahir-ud-din.
	The Hon'ble Mr. T. R. Filgate.

The following Members were absent:—

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, *Kt.*

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Khan Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Babu Braja Krishor Prasad.

The result of the division was, ayes 12, noes 28, and the motion was therefore lost.

[*Babu Deba Prasad Sarbadhikari; Mr. Wheeler.*]

Clause 161 (now 162).

498. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause 161 (*now 162*) be omitted.

He said:—

"Is that accepted—because what precedes is a question of compensation about which we have some fairly strong language."

The Hon'ble Mr. Wheeler said:—

"No, Sir, we do not accept it."

The Hon'ble Babu Deba Prasad Sarbadhikari said:—

"This reminds me of a story. Once upon a time there was a vastly learned pandit who used to give *babyasthas* to people as penances for dire offences. One day a rustic came to him and asked, 'Good sir, what is the penalty for killing a spider.' 'A spider,' quoth he: 'Why, it is a very serious matter, and the least of penances would be the gift of 16 kahans of cowres, 2 kine and half a tola of gold to a goodly Brahman, who should be well fed.' The rustic said, 'Sir, it is very serious. Your son has killed a spider.' The Pandit rejoined:—'Tut, tut, the killing of a spider is really an infinitesimally insignificant affair, and indeed there is no penalty attached to it in any of the Shastras if you look at them closely enough.' When the Hon'ble Mr. Apcar pleads for some concession, not to property generally, but to immovable property that may be injuriously affected by the Improvement Scheme, and when he quotes the high authority of English Statutes and precedents in the House of Lords, what is the answer with which he is met? It is dangerous, it is impossible and it is impracticable. When, however, questions of injury to a lamp-post, which is property of the Trust, come up, and we have a strong expression of opinion with regard to paying compensation to the Trust itself for damage to its own property, we are stoutly told that it is dangerous to concede compensation to the affected owners. Therefore it comes to this, under this Bill when it becomes an Act, the Trust will be altogether immune, but if there is the slightest damage to any of its own property, compensation is to be recovered, and in addition to any penalty to which the damager may have been adjudged. That is not all. How is that compensation to be enforced? By a method which I confess I have not been able to follow. The wording of this clause is,—that if on account of any act or omission, any person has been convicted of an offence against this act or any rule made hereunder, and by reason of the same act or omission by the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence. Then we are told in the next sub-clause, that in the event of a dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence. Sir, this compensation comes under the category of a penalty, and, up to now, I had never heard that it was open to a person convicted to dispute what the penalty imposed upon him should be, because the compensation there is nothing more or less than a penalty which the Magistrate shall adjudge. Of course, in olden times a judge, after the jury had returned their verdict, used to ask the prisoner at the bar to show cause why sentence should not be passed upon him. It is almost as useful to have this question of dispute between the vendor and the Board settled at a later stage by the Magistrate as this question of penalty. But here the Magistrate is to adjudge compensation. We have left the Magistrate no option as to whether there should be any compensation payable or not; the Magistrate ordinarily has a right under certain circumstances, and in conceivable cases, to award compensation if he thinks fit to do so. But the case here is altogether different. Though the Magistrate may not have thought fit to adjudge any compensation,

[*Mr. Slacke; Babu Bhupendra Nath Basu; Mr. Bompas.*]

in due course he is to assess it if at a later stage the Board and the offende cannot agree as to what the latter should pay. This clause does not give th Magistrate any option. It lays down for all time to come that compensatio shall be paid if there has been damage, although there may have bee a conviction and although the Magistrate in his own discretion may hav awarded no compensation. The Magistrate has to step in next, whethe compensation ought to have been awarded or not in his judgment, ah he has to determine the amount of compensation; yet it does not appea at what stage. We are here told about disputes between the offende and the Trust as to the amount of the compensation. I suppose negotiation will have to go on, bargains will go on as to what compensation ought to b allowed, and then, at a subsequent stage, when the parties are unable t agree as to what the compensation ought to be, the Magistrate has to interven again and adjudge on the amount of damages which in the circumstances ar to be recovered, as if they were a fine inflicted by the court. Therefore we have a somewhat incongruous state of things: the Trust will not pa any compensation itself. It will be entitled to compensation, which wil be a matter of course; in cases of damage the parti s will have the right to negotiate, and if they do not agree, the Magistrate has to interven again and to realise the compensation as fine in the ultimate stage. I legislation like this is to proceed, things will be, to borrow my friend's languag e absolutely impossible, and I think that the best thing we can do is to delet this clause and leave it to the good sense of the Magistrate to award an compensation, to press for which it will always be open to the Trust, if th circumstances are such as to justify such pressing."

The Hon'ble MR. SLACKE said :—

"This clause is simply borrowed from section 615 of the Calcutt Municipal Act, which says that, in the event of a dispute, the amount o compensation payable by the person shall be determined by the Magistrat before whom he is convicted and on non-payment the sum shall be recoverabl as if it were a fine inflicted upon him. That appears in the Calcutt Municipal Act and, therefore, I would oppose this amendment."

The motion was then put and lost.

Clause 163 (now 164).

499. The Hon'ble Babu Bhupendra Nath Basu moved that the word "shall be in writing over the signature of the President or the Secretary t the Board and" be inserted before the word "shall," in line 5 of clause 16 (*now 164*).

He said:—

"Is this accepted?"

The Hon'ble MR. BOMPAS said :—

"No, Sir, I do not accept it. It does not appear in the correspondin section of the Calcutta Municipal Act. This clause merely provides how notice should be published and says that they should be published in newspapers."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn :—

500. The Hon'ble Babu Deba Prasad Sarbadhikari to move that th words "if practicable," in line 5 of clause 163 (*now 164*), b omitted.

[Babu Deba Prasad Sarbadhikari; Mr. Bompas.]

Clause 168.

501. The Hon'ble Babu Deba Prasad Sarbadhikari moved that after clause 168(*1*)(*e*) the following be inserted, namely :—

"or

"(*f*) to do any other thing that it may be necessary to do under and for the purposes of this Act."

He said :—

"Sir, here at all events I hope to have the support of my friend opposite. In this case some little concession is possible through the good offices of my friend."

The Hon'ble MR. BOMPAS said :—

"I am prepared to accept this amendment in a modified form, Sir. I would only have the words 'to do any other thing' inserted after clause 68(*1*)(*e*). If the Hon'ble Member will read the clause with his amendment taken in, he will find that it makes a very cumbrous sentence."

The motion was then put in the altered form and agreed to.

The Council was then adjourned to Tuesday, the 22nd August, 1911, at 11 A.M.

CALCUTTA ;
The 8th September 1911.

F. G. WIGLEY,
Secretary to the Bengal Legislative Council.

B. S. Press—5-12-1911—2434J—500—J. L. C.

Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.

THE Council met in the Durbar Hall in Belvedere on Tuesday, the 22nd August, 1911, at 11 A.M.

Present:

The Hon'ble MR. F. W. DUKE, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. F A. SLACKE, C.S.I., *Vice-President*.

The Hon'ble RAI KISORI LAL GOSWAMI BAHADUR.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. T. BUTLER.

The Hon'ble MR. I. P. CHAPMAN.

The Hon'ble MR. J. G. CUMMING.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. S. L. MADDOX.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KÜCHLER.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. C H. BOMPAS.

The Hon'ble MR. F. L. HALLIDAY, M.V.O., C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble NAWAB SAIYID MUHAMMAD, KHAN BAHADUR.

The Hon'ble MR. C. F. PAYNE.

The Hon'ble MR. H. J. HILARY.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITA NATH RAY BAHADUR.

The Hon'ble LT.-COL. G. GRANT-GORDON, C.I.E.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.I.E., MAHARAJADHIRAJA BAHADUR OF BURDWAN.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. T. R. FILGATE.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble MR. DIP NARAYAN SINGH.

THE CALCUTTA IMPROVEMENT BILL, 1911.

Clause 137 [now 138 (1)].

The Hon'ble MR. BOMPAS said:—

"Sir,—May I call attention to an omission that occurred yesterday? I would request permission to move that the words 'or the President of the Tribunal' be inserted after the words 'by the Local Government' in line 3 of clause 137 [*now 138 (1)*]. Under clauses 64 (*now 74*) and 66 (*now 76*) the President of the Tribunal has power to make rules, and he should therefore be referred to in clause 137 (*now 138*)."

The motion was put and agreed to.

THE SCHEDULE.

Clause 14 (2a) [now 9 (1)], relating to the 15 per cent. additional compensation in consideration of the compulsory nature of acquisition.

The following motion, of which several Members had given notice, was taken into consideration. In the ordinary course the motion would have been moved by the Hon'ble Babu Bhupendra Nath Basu, since his name stood first in the List of Business; but at his request the President allowed the Hon'ble Babu Hrishikesh Laha to move it, and he moved it accordingly.

[*Hrishikesh Laha.*]

507. The Hon'ble Babu Bhupendra Nath Basu to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

508. The Hon'ble Babu Hrishikesh Laha to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

509. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

510. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

511. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

512. The Hon'ble Maulvi Saiyid Muhammad Fakhr-ud-din to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

513. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill be omitted.

The Hon'ble Babu Hrishikesh Laha said:—

"I beg to support the amendment which has been moved by my hon'ble friend Babu Bhupendra Nath Basu. The amendment also stands in my name. The reasons given why sub section (*2*) of section 23 of the Land Acquisition Act should not apply to the acquisition of land in Calcutta are because the Bombay Improvement Act does not contain it and that it would increase the cost of the acquisition. But they do not appear to be at all convincing. Calcutta is not Bombay: the circumstances of the two provinces are quite different. If it had been a good reason that the 15 *per cent.* statutory allowance would go to swell the cost of the acquisition, the Legislature would never have provided for such allowance in the Land Acquisition Act at all. The principle underlying this provision is a very just one. When persons are forced to part with their properties, specially residential houses of which Calcutta is mostly composed, a solatium is absolutely necessary in view of the fact that all associations of love and traditions which are dear to us, are linked up with them, and even John Stuart Mill, who, as is well known, was not favourably inclined towards property-owners, was constrained by a keen sense of justice to admit, 'When property is of a kind to which peculiar affections attach themselves, the compensation ought to exceed a bare pecuniary equivalent.'

"With regard to the liberal treatment of house-owners I am confirmed by the Report of a Conference held at the Guildhall, London, by experts under the auspices of the Garden City Association. I cannot do better than quote from the speech of Mr. H. Rider Haggard, the Chairman of the meeting at the Guildhall. He said:

'Gentlemen, we should be more innocent than we are if we suppose that land will always be available at a reasonable price at a moment's notice, and, therefore, I presume there would have to be some measure of compulsion in order to enable that land to be acquired. Now, I confess to you that compulsion is not a word which I am personally very fond of, and I had far rather see everything done by voluntary agreement if it can be done, but, at the same time, I do think that there are occasions when the wishes of the individual man must give way to the good of the community: only personally I should make this proviso, that the individual whose land is taken for this purpose ought to be fairly and liberally treated. I am strongly of the opinion, gentlemen, and I expect most of you are of the same opinion, that a great deal more harm is done to schemes of reform by those who advocate very violent measures, by those who, for instance, advocate taking peoples' land, etc., at a beggarly price, than good, because the effect of such advocacy is to raise the strongest opposition in the minds of moderate men who are accustomed to the thought that a man has a right to his own, or a right to sell his own, at a reasonable price. For that reason, therefore, also, I think, and I believe that this meeting will agree with me, that anybody whose land is taken for this purpose ought to be fairly and even liberally treated.'

The principle enunciated in London is of universal application, not even India excepted. To act against such principle cannot be justified on any moral ground, however plausible the contrary argument may be.

"Bitter and most unjust criticisms have been levelled against the rapacity of the big landlords, or the 'grandlords' as they are sneeringly called. It would not therefore be out of place for me to show by facts and figures how utterly baseless these futile bickerings and irresponsible criticisms are. From a statement of facts carefully compiled and furnished by Mr. Cooper, the Assessor and Surveyor of the Calcutta Corporation, it will be seen that there are 39,790 premises in the 25 wards comprised within the Calcutta Corporation, and out of them—

903 premises are valued at one lakh of rupees and unwards, or, say 2·27 per cent.

		Rs.	
1,280 premises	...	50,000 and upwards, or, say	3·22 per cent.
2,988 ,,	...	20,000 ditto	7·51 do.
34,599 ,,		below 20,000, or, say	87 per cent.

There are also 6,457 bustees, of which 53 or ·82 *per cent.* are valued at a lakh of rupees and upwarns, 151 or 2·34 *per cent.* Rs. 50,000 and upwards, 584 or 9·04 *per cent.* Rs. 20,000 and upwards, and the rest below Rs 20,000. From the same source I have received a statement showing that the owners of premises pay, in the shape of rates, Rs. 45,58,851, the occupiers Rs. 15,88,085, and the bustee owners Rs. 5,78,343.

"It will be obvious to any one from the above figures that the 'grandlords' are a very negligible quantity, and the withdrawal of the statutory allowance of 15 *per cent.* will only press very hard on the poor house-owners. So the statement that the rich house-owners are playing off their poorer brethren for the advancement of their own ascendancy has no foundation in fact. I should have gladly avoided this part of the question, but as the Indian house-owners have been reviled and accused of interested motives I cannot avoid it, and our critics must not be surprised to find that two can play at the same game with equal facility. The above-mentioned facts and figures will, I hope, completely dispose of all current misconception or misstatements on the subject. I cannot help quoting a reply of Abraham Lincoln in another connection, which may aptly be applied to our critics: 'I am sorry to perceive that friend Judge Douglas is so constituted that he does not feel the lash the least bit when it is laid upon another man's back.' So long as the lash does not fall upon the backs of the cavillers, they are quite indifferent to the whip, but the moment it touches their own bodies they at once perceive the injustice, cruelty and inhumanity of the matter.

"If the poor house-owners are deprived of the usual statutory allowance, they will find it very hard, when they are displaced, to get new houses, considering the progressive rise in the value of lands which is taking place every year. They will not only have to pay higher price for the land, but also for increased cost of labour and materials, and they will be obliged to submit to an injury, being unable to repair to a refuge, the door of which can be opened only by golden keys. It would be a tyrannous use of power to deprive a certain section of the people and to force them to pay, for the benefit of another section of the community which is to enjoy all the improvements. We have not yet advanced enough to appreciate the sledge-hammer methods of socialism, and so long as land does not become common property and Government does not undertake to maintain us with food and clothing, sustain us in sickness and old age, and bury and cremate us when dead, it would be most unwise to introduce this revolutionary provision in the Bill. We do not want any concessions. All that we wish is that our vested rights should be kept in tact, and we want nothing more. Any indulgence in this direction will command the respect of all right-thinking Indians and of all who have been watching their affairs most closely and with a breathless interest. It will no doubt prove to them a source of great consolation to know that they have, on this most important occasion, at this acute crisis, the sympathy of Government.

[*Maharajadhiraja Bahadur of Burdwan.*]

"I may be permitted to point out that the Bill omits all attempts at co-operation with the people, which is the key-note of success of a measure like this, as will be manifest on a reference to section 56 (2) of the Housing and Town Planning Act, 1909. It is idle to argue that, as provisions similar to those now being introduced obtain in England, and probably in other places on the continent, they should also be enacted here. The people of this city and the much-abused landlords cannot be said to be responsible for the present state of affairs. Has there been any enactment on the lines of the English Acts relating to the housing of the working classes and other cognate Acts relating thereto in this country, although such Acts have been in operation in England for a very long time? Such Acts are still being amended in England, and they have not yet passed the experimental stage, if I may say so, nor the mode of procedure thereunder definitely settled To bring to bear upon the people of this city all the stringent provisions of the English law without its safeguards and limitations of public inquiry and right of appeal is, to say the least, quite premature, and our people are ill-fitted to adapt themselves to the new conditions all at once. The habits and customs of the people and their mode of living are wholly different from those of the Western nations, and the far-reaching effects of this Bill on their home life, regard being had to the poverty and comparative ignorance of the people, should receive as sympathetic and liberal a consideration as practicable. In Calcutta, specially in the Indian quarter, most of the property consists of residential houses; hence the need for the liberal treatment of house-owners by granting them the solatium of 15 *per cent.* is the greater on account of the peculiar affections attached to an ancestral dwelling-house. In the estimation of the Government such a deprivation may be just, which the people, however, do not see; yet such justice may be executed without forgetting mercy, especially in this auspicious year of their Majesties' Coronation, when the Government may be disposed to confirm the time-honoured principle that a gift, when once made, can never be revoked.

"I regret that the Hon'ble Member in charge of the Bill expressed his opinion in the Select Committee that the landlords of Calcutta are solely to blame for the bad condition of the city, and therefore deserve punishment—quite forgetful of the fact that the Government are more to blame in this direction than the landlords. Town planning is not their *forte*, and if they had been guided by Government in the early days by rules and regulations regarding planning of sites and open spaces, the defects which are now visible would never have occurred. Government have, however, made some amends by way of a grant of 50 lakhs of rupees, but this is too small for the purpose, and instead of allowing one section of the community to be sacrificed for the good of another, they should, in common fairness, have made a further grant of 50 to 60 lakhs. This would have avoided the necessity of inserting one of the most objectionable clauses in the Bill. Howevermuch the unsavoury contents of the ink-pots be emptied over the devoted heads of the landlords their faces can never be blackened, as their works stand out in a clear light—their yearly payment of over 50 lakhs in the shape of rates and taxes speaks volumes in their favour and has contributed to make Calcutta what it is now. The landlords can therefore fully expect indulgent treatment at the hands of Government."

The Hon'ble the MAHARAJADHIRAJA BAHADUR OF BURDWAN said:—

"Your Honour,—I have come here to-day at certain risks to my health, which has not been good of late, and I have done so simply for the purpose of protesting against that broad principle of equity that the Government of India have adopted and have asked the Bengal Government to adopt in connection with the Calcutta Improvement Bill. This broad principle of equity, when put into practice after the Improvement Bill has been carried, will mean the vampiring of the Calcutta landlords and land-owners. What particular crime the Calcutta land-owners and landlords have done so as to be deprived of the privilege of the statutory allowance of the additional compensation of 15 *per cent.* under the Land Acquisition Act, still remains to be demonstrated. The Bill before us, which will undoubtedly be passed into law to-day—thou-

some of us will, because certain principles have not been accepted, vote against its passing—will in the future have far-reaching effects. But in connection with this question of the granting of additional compensation of 15 *per cent.*, you will not only be depriving the land-owners and landlords of Calcutta of a legitimate right, but you will be depriving many members of the poorer middle classes of a privilege that they could have claimed had they not had the misfortune to live within the Calcutta Municipality. The Government of India have said that, since the introduction of this Bill, no proof or demonstration against the adoption of what they have been pleased to term as the broad principle of equity, has been given to change the attitude of Government I do not know, Sir, what further proof or greater proof we could have given than the tenacity with which several of us, non-official Members, have been opposing certain clauses of this Bill. The unsympathetic attitude of the Government is not creditable to itself. You might have had the land-owners and the poorer classes with you by a slight concession. You can at present ignore the poorer classes, but do not forget the example of Liverpool. In the past you have had to deal with much discontent and unrest and even anarchism in India, thanks indirectly to the utterings of irresponsible ultra-radicals at home, and you are now going to give by this measure an opportunity to the whole of the land-holding classes of Calcutta to turn to a channel of disloyalty and discontent. You are a mighty Government and you can do what you like. But is this wise? As a Councillor, as a man having some interest in Calcutta, and further, representing the land holders of the province like my esteemed friend to the left, the Maharaja of Cossimbazar, I would be failing in my duty if I did not protest emphatically against this taking away of the 15 *per cent.* compensation which the land-owners would have been privileged to get had they not been in Calcutta. This Bill is no doubt going to give Calcutta a great privilege. It is to have 50 lakhs from the Government of India for improvements, upon which Calcutta is undoubtedly to be congratulated, for we could have spent that 50 lakhs elsewhere, perhaps in relieving the needs of the mufassal. It may also be argued by several mufassal Members here that by the tax that will be levied to meet the expenses of this Improvement Trust, the people of Calcutta are really going to escape with very little expenses; for undoubtedly, the tax, which is to be levied on all passengers coming into Calcutta, will not affect so much the people of Calcutta as the mufassalites. But granting all these, I fail to see that when the Improvement Trust will embrace not only insanitary areas but areas through which you will construct streets and roads to beautify the city and also add to its sanitation, why in the latter cases some compensation cannot be given to the people who will be affected? I do not simply refer to the landlords, because the Hon'ble Maharaj-Kumar Hrishikesh Laha has pointed out their case. For, though the land-owners are a minority—and an important minority too—and will be affected by this measure, there will be other people also affected. I would, therefore, even at this stage, appeal to the Government to consider this question, and also to my friend, the Hon'ble Babu Bhupendra Nath Basu, and the other Members not to move the omission of clause 14 (2 *a*) [*now 9 1*)] in its entirety, for I myself am opposed to giving any extra compensation in the case of lands situated in absolutely insanitary and unhealthy areas, but to move the amendment No. 519 with such modifications as my hon'ble friend may deem fit."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Your Honour,—I would readily respond to the appeal of my friend, the Hon'ble Maharajadhiraja Bahadur of Burdwan, if I found the least inclination on the part of the Government to accede to that very moderate request contained in the amendment. But, so far as I have been able to ascertain, there is no desire on the part of the Government to come to any terms regarding this question, and consequently there is no option left to me but to move the amendment of which I have given notice.

"I do not think it is necessary for me to go into the genesis of this question. For the information of my colleagues in this Council it is enough to say

[*Babu Bhupendra Nath Basu.*]

that the change now sought to be introduced by the new measure is that th compensation of 15 *per cent.*, which used to be awarded to owners of properties for the compulsory nature of the purchase, will not any longer be allowed Well, Sir, in order to justify this action on the part of Government, ther must be some cogent reasons in moving it to take this step. We have not go here the practice under which the Member in charge introduces a specia clause and explains its motives. The Statement of Objects and Reasons i practically silent over this matter, and we are left to conjecture as to what ma be the actual motives which the Government has got in making this drasti change in the law of the country as it now stands. As regards the law tha now obtains, I may remind my friends that it is the handiwork of the greates men who have had anything to do with the administration of British India Sir John Strachey, Sir James Fitzjames Stephen and Sir Henry Maine are name to conjure with in any country, and they deliberately adopted, when passin the Act of 1870, this principle of giving especial compensation for the compulsor character of the acquisition, because they thought that it was a just an equitable treatment of popular rights, and in doing so they were not following haphazard method. It was well recognised in England itself that some specia compensation should be given to the owner for the compulsory character of th acquisition. In England, moreover, in cases of dispute, the compensation used t be and is still so fixed by arbitrators in the first instance or by juries. Th result was as was to be expected, that there was a very liberal consideration of th claims of the owners of properties from whom the land was taken. Moreover in England the principle of valuation was different. England was not the onl country where, for the exigencies of the State, it was necessary to acquir land compulsorily, but in every country on the continent of Europ that was the principle followed of giving compensation to th owner for the compulsory character of the acquisition. Sir John Strachey who was then Mr. Strachey, said that it was a special desire and inten tion of Government that the law and practice in England should, so far a these principles were concerned, be adopted in the Bill. He then mad it clear that the principles of the measure were really identical with thos obtaining in England, and that the law of all civilised European countries, fo there was really, as far as we have been able to discover, little or no differenc in this respect in the different countries in Europe. He says that he did no see any reason why the same principles of equity should not be applied to Ind in the case of private rights of property, and he quoted in support of his conten tion a note left by such a high authority as Sir Henry Maine, and Mr. Strache proceeded to say that he thought that the Council would be satisfied whe he said that the principles were those which were in practice in England, b he quoted the remarks contained in the memorandum which was issued und the special authority of Mr. Maine before he left.

"Well, Sir, I have quoted what I respectfully submit is the highest authorit available to me in this country for the support of my proposition that, in th case of compulsory acquisition of property, there should be some compensatio given to the man from whom you acquire the property. I do not wish to g into reasons which have led all civilised countries to adopt that principl That must be well known to most of my colleagues here, and that is a princip which is still followed in England and in European countries and is st followed in our own country. Why is it then that it is not to be followed nov

"Well, I now come to the question as to why this principle should be d regarded at the present moment. Before I go into the precedent about th present practice sought to be introduced, I suppose my friend will justi his position on two grounds: (1) that the means of the Trust will not be suf cient to pay this extra allowance to the landholders of Calcutta, and (2) th the land holders of Calcutta themselves have been responsible for this sta of things, which has led to this legislation. Before I proceed, I will refer an authority to which my hon'ble friend some time or other, in the cour of the debate, referred. He has referred to that authority with great respe I will follow his example. I mean the report of the Calcutta Building Co mission presided over by Mr. Justice Trevelyan and supported by a ve distinguished body of men, including engineers, the Chairman of the Calcut

Corporation, and Mr. (afterwards Sir Herbert) Risley. There also they considered the question of compensation in paragraph 140 of their Report.

"Let us see how the case was then put by a man whose great abilities were recognised in this country as well as in England. The Commission says:—

> 'Mr. Hughes also considers that there should be no statutory allowance in respect of property acquired in unhealthy areas.'

"We see that Mr. Hughes confines his case to unhealthy areas. The Commission further says—

> 'We have carefully considered the question of statutory allowance and are not inclined to recommend any alteration of the present law. In some of the English Acts no allowance is made for compulsory sale. In one a discretion is allowed. Mr. Freeman, in his book to which we have referred, says at page 41 that in England the allowance for compulsory sale in the case of houses and building land is invariably 10 *per cent.*, while in the case of agricultural land it is usually 25 *per cent*, and, in some of the northern counties, rises to 50 *per cent.* The 15 *per cent.* fixed by the law in this country is, we think, fair.'

"Well, Sir, I have placed before my colleagues a very recent authority, an authority constituted by the Government itself for dealing with the very question with which we are now dealing, namely, the removal of the insanitary conditions that prevail in Calcutta, and more than this. This Report was the outcome of an agitation which was started in Calcutta on the outbreak of plague, which, it was feared, would work the same havoc in Calcutta as it had done in Bombay. Luckily for us, the experience of the last 10 or 12 years has not justified those fears, and Calcutta itself has fared much better than Bombay has done. Consequently, the panic under which the Commission was started and which, it would be expected, would to some extent influence the minds of those who formed the Commission and would in some degree induce them to recommend the adoption of stringent and drastic measures, no longer finds place in the Council to-day. Why is it then that we go beyond, much further than, what was recommended by the Building Commission? As I said, the only reasons which would justify us would be, firstly, the inadequacy of our means, secondly, the remissness of the classes who would be entitled to compensation, if compensation were at all allowed. Well, Sir, as regards our means, I tried to point out yesterday, from figures which the Corporation of Calcutta have supplied, that even without the Government subvention, that even without the contribution from the Corporation for a great many years, the final result of the operations would be a large saving. I respectfully submit that this is a position which my friend opposite the Hon'ble Mr. Wheeler was unable to controvert. He merely said that it would not be safe to deal with figures, and that actual experience might involve us in greater expenditure that was anticipated at the present moment. But, Sir, if we take the financial provisions, let us consider how much extra expenditure this 15 *per cent.* would involve. Our gross expenditure would be about Rs. 8,22,00,000 against which there would be recoupment of about Rs. 3,86,00,000. We shall assume that our net expenditure on the acquisition of the property would be, say, 4 crores or even 5 crores. Well, if it is 5 crores, and if we pay a compensation of 15 *per cent.*, which will not be possible for a period of less than 12 years, because we do not expect to carry out our operations in less than that time, it will be at the highest an extra expenditure of 70 or 75 lakhs spread over a period of ten or fifteen years. Is that an expenditure which strikes terror in the hearts of my friends opposite, for the figures show that they need not be frightened by the extra expenditure? My friend says that Government spent very liberally for us, as it has given to us a grant of 50 lakhs to start with. My friend will remember that it made a grant of 57 lakhs to the Government of Bombay in the shape of land when they started their improvement scheme Only the other day the Government of India made a liberal grant to the improvement of Bombay. Well, Sir, the figures that we have discussed yesterday did not take account of the Government subvention. With the Government subvention, our financial position, so far

as we can anticipate, will be perfectly sound. Therefore, I say that it is not the pressure of financial requirements of the scheme that would compel us in withholding from the people what we think otherwise is fair and just. Then what is it? Is it the remissness of the people concerned as to the present state of Calcutta that has enraged a just and powerful Government so that it denies to them the rights which have been conceded in other civilised countries in the world, either on the continent of Europe or in America? But, apart from that, is the first part of the premises right? Is it right to say that the present state of Calcutta is due to the landlords? Sir, I shall not trouble my friends by references to documents which must be well-known to my friends opposite. My friends are probably aware that, in 1885, there was a Committee in Calcutta known as the Health Committee, under the presidency of Mr. Justice Cunningham, and that at the instance of that Committee a Commission was constitued under section 28 of the Calcutta Municipal Act, as it then was, Bengal Act VI of 1876, to inquire into the whole question, and the Commission, presided over by Mr. Beverley, came to the conclusion that much good work, so far as it was possible to do it, had been done by the Corporation of Calcutta with the means and resources at their disposal, and under the circumstances in which they were placed, and they showed that if anybody was to blame for allowing those miserable streets in the heart of Burra Bazar to grow, those narrow winding lanes, those high ill-ventilated houses, it was not the Corporation of Calcutta which had not then existed, but it was the Government of Bengal and the Government of India who had ample powers and who did not interfere. I do not blame the Government, for sanitary ideals had not then advanced to the present extent, but was there anything to prevent you or your predecessors (the Government of India or the Government of Bengal), when they had absolute power over the destinies of Calcutta and its civic population, from allowing those lanes, those open sewers, of which some of us have at least a faint recollection to be put an end to by the rate-payers when they became organised into a Corporation? Who was it that was responsible? And who, again, was responsible that, until 1888, there was no regulation, there was no statute laying down provisions under which houses were to be built or constructed? Well, Sir, it has often been said that the work of British administration has been the work of education. Then, whose fault was it that for more than 100 years since the days when Clive's victorious army entered Calcutta until 1888, this city was allowed to grow into its present state? Then, again, Sir, would you for a moment compare the land-holding classes, the responsible land-owners, the house-holders of Calcutta, with the great land-holders of England? Who is it that is responsible for the overcrowding here? Is it the people of Calcutta that are responsible, because good roads have not been provided for access from Calcutta into its environs? Are we responsible for the omission to provide cheap railways for the use of your working men who could easily go from the places of their work to some place where they could live? Are we responsible that there are no sewers, no drains, no water-works outside Calcutta where middle-class people can go and live? Are we responsible that there are no means of communication between Calcutta and its environs? Why is that, in one of the *bustees* in northern Calcutta, we find your working men huddled together? Where are they to go? Have you found any place for their habitation? The other day you built a magnificent dock at Kidderpore. When was it that you made accommodation for the working people? Are we responsible if a small plot of land is taken from a land-owner by these poor people who build their huts and huddle together, because they have got to live there in large numbers? Have you inquired into the cause of this? It is because the wages are low and they cannot afford to pay for good lodgings. Do you expect that under your Trust, whether you carry it out by despoiling your landlords, you will be able to give them such cheap dwellings that they will be able to live in comfort upon the wages that they at present earn? What is the rate of wages in this country, and what is the standard of life? Are these all evils which have resulted from the land-grabbing interests of residential house-owners in Calcutta? Can you say honestly whether you have ever held any inquiry into that subject

any inquiry in which the landlords might be arraigned before you as criminals in the dock to submit their evidence to clear themselves? Who is responsible for the present state of wages which compel the working classes to huddle together in huts between Calcutta and its environs in larger numbers than can be healthful? I say it is the absence of good roads, the absence of cheap railways and tramways that are responsible. You, Sir, have given in this country a monopoly to tramways which charge higher fare than even in European countries. You have given blindfully your contracts to electrical firms for your tramways, for your lighting, and they charge enormous sums upon your poor people. Have you compared the rates of wages on the continent with the rates that prevail in this country? I think, therefore, it may be the present low industrial condition of my country, it may be the remissness of those in authority, it may be the ignorance of these things that are responsible. How is it that the landlords are responsible? I have got a plot of land which is in demand. Working people come and offer me terms. I have got to make the best of terms. Am I responsible? If my friend, the representative of the Chamber of Commerce, has a large stock of grain, and if unfortunately a famine year comes and forces up the prices of grain, will he sell the grain as an act of philanthropy, or will he sell the grain for whatever it may fetch in the open market? I say, Sir, that if the Calcutta landlords have been found to blame, there has been no inquiry upon which they have been represented, or, if not represented, before which they have been allowed to put their case. If all these factors are well considered, it will be found that more people are responsible than the landlords of Calcutta; and more than that. It is not the landlord of whom I am thinking in this improvement scheme of yours—the landlord whom you will displace—but it is the residential house-owner. Do you have a class who live in large numbers in European cities—men owning small houses where they have been living for generations? Your experience of Europe I appeal to. Would you tell me if there is such a state of things in a European city? Then why is this negation of a right which is enjoyed by the people everywhere, if your financial condition does not prevent the obligations to be imposed upon you, if you find that your landlord has not been after all such a bad fellow as he is represented to be (it has been said that a very important personage is sometimes painted blacker than he really is, and I suppose that the landlord suffers from the same difficulty)? But I go further, and take the models of the English Acts in regard to the improvement of insanitary areas and of town-planning. As I said, Sir, this act of yours is a beautiful jumble, like the toy kaleidoscopes which little children make for their own amusement. If you look at this Act and its provisions, it becomes a kaleidoscope of various intentions. There is everything. It has the merit of all the virtues; it has the demerit of not providing, of not anticipating, how these virtuous intentions are to be carried out, without infringing upon popular rights, without creating discontent. Well, Sir, as I have now said, I would refer to the English Acts of town-planning.

"Let us begin with the English Acts of town-planning. In this connection I am only putting it as a personal matter, for the fates, which have been dogging our footsteps over this measure, have unfortunately made me miss the parcel in which I was bringing out all the literature connected with this subject. I had an interview with the valuer of the London County Council, and I believe, my friends, Mr. Bompas and Mr. Payne, interviewed the same gentleman. He gave me a statement in writing. He said that it is true that under certain circumstances no compensation for the compulsory character of the acquisition is given as such, but whenever we value land, we put in 10 *per cent.* to provide against a margin or error. If we value a land at £ 1,000 which we are taking for a public purpose from a private individual, it is quite possible that we may be erring against the individual, and we put in 10 *per cent.* in addition. Well, Sir, it may be said that the same thing will be done in this country. But does the experience of the Land Acquisition Act in this country justify that hope? I see before me many old lawyers who have had a large experience of this Act; will they say that the Land Acquisition Deputy

Collector always takes a generous view of the value of the land which is going to be acquired? In my unhappy country where, in the Executive service, promotions go by the number of convictions, and in the other branch of the service preferment goes by the reduced amount of expenditure, the tendency has always been to keep down the expenditure as much as possible, even though it might be, as it has always been, at the cost of great suffering to the poor. How many people, do you think, are able to bring their case up to a court or even to the Collector? And our invariable experience has been—my experience is more confined to Calcutta than to the mufassal—that the Land Acquisition Deputy Collector proceeds upon the well-known doctrine that prevails on the continent amongst the shopkeepers who ask as much as they think they might be able to get and then you have got to bargain. So my Land Acquisition Deputy Collector gives as little as he can at the outset so that he may gradually go on increasing and see at what time the owner will ultimately agree to part with his land. That has been, I say without fear of contradiction and with all the responsibility of making that statement from my place in this Council Chamber, invariably the practice. There is always a spirit of bargaining in these petty matters. It has never been said 'I make this offer'; and that ought not to be the attitude of the land acquisition officers that are employed to acquire land for the Government of this country.

"Well, Sir, my friends, the representatives of the Chambers, also have had a large experience of land acquisition matter, and I am quite sure they will be able to bear me out that in land-acquisition proceedings there is always an attempt on the part of these officers to offer at first as little as they can.

"Well, Sir, I was referring to the English Acts, and I said that notwithstanding their present Acts, that is how they proceed. But I do not ask you to proceed upon a statement of mine, which I am unhappily just now not in a position to corroborate by the production of the documents upon which I would rely. We shall assume that this 15 *per cent.* is not allowed under the English Acts, but let us examine the Acts and see what it is that is not allowed under the Act? The great roads, the great thoroughfares that are opened, do not come under the Town Planning Act, nor under the clauses of the Land Clauses Consolidation Act. We contemplate under this Act not only to deal with insanitary areas, to open squares and public places, but we contemplate to relay the town of Calcutta, to open up arterial roads to the suburbs, to make some attempt and to atone for our past neglect, in providing our working men with reasonably easily accessible sites, with cheap modes of communications. All these are to be opened at the expense of the Calcutta house-owner. Is that reasonable? The Bill provides that so far as lands outside the Calcutta Municipality are concerned, they will not suffer in value as they will receive the compensation of 15 *per cent.* I do not grudge that compensation; in fact, I welcome that provision. But is it just and is it fair that there should be a differential treatment between Calcutta and its suburbs in reference to this claim to compensation? For who will primarily benefit—the people through whose lands roads, cheap trams and railways will be carried? They will benefit more than Calcutta itself, and they are to receive the 15 *per cent.* compensation, whereas Calcutta is not to receive it. Is that fair?

"Then, Sir, the English Acts (Act of 1890) are confined to insanitary areas, and no compensation is given for compulsory acquisition in respect of insanitary areas. From the operation of that clause, neighbouring lands were expressly excluded, and then the net result of the Act is thus stated. In dealing with the principle of assessment, I shall quote with your leave from a well-known edition of the English Acts for housing of the poor and town planning:—

'Under the Land Clauses Acts, when land is taken, compensation is awarded in respect of the value of the land in itself, the damage due to severance from other adjoining land of the same owner and any other injuries affecting such other land. These three items really make up what is the value to the owner, and it is the value that was always to be ascertained in determining the compensation under these Acts.'

"Is it the principle that we are going to adopt in this Act even when you are acquiring insanitary areas? The gentleman whom I saw said that that is a condition which is very reasonable. Supposing we have got to deal with a property where some former King of England had planted an oak. The intrinsic value of the oak is but little, and we set at nought the value of the oak itself, but we consider the value the owner attaches to it in the fact of its having been planted by a former King of England. That was the example he gave. But that is only by way of illustration as to what is done under the English Acts. Then, there are some other clauses, parts of the English Acts where no compensation is allowed, when you are acquiring land for the purpose of building houses for your working classes. In that case you do not get any additional compensation, so that, where you do not get this is when you are acquiring unhealthy areas. But in connection with unhealthy and insanitary areas, if you are acquiring neighbouring areas you have to pay. Where you are building for the working classes, you do not pay. Where you are building sanitary conveniences, you do not pay. I will not trouble or fatigue the Council by going into these details. I have made this statement, and if I am wrong, my friends opposite will correct me. Here, in your Calcutta Act, you not only deny this compensation in respect of insanitary areas, but in regard to every plot of land that you acquire, for whatever purpose it may be, whether for squares, whether for making a road, or whether for recoupment. You are carrying on a large number of operations for which you do not pay. Had you confined your non-payment purely and simply to unhealthy areas and insanitary houses, there might be some justification for this; but what is the justification for this sweeping measure, I cannot find. It is, I think, unjust, unfair and unnecessary. My friend, the Hon'ble Maharajadhiraja Bahadur of Burdwan, has told me that my subsequent amendment would be better adapted to carry out my purpose than the present one. I have no hope, as I have said, that the subsequent amendment would find favour with the Government at all, and, therefore, I move this amendment. I show that it does not make you suffer, that it does not endanger your scheme. Even in democratic America, they provide numerous safeguards against the municipal operations. Well, if even in such a democratic country as America, it has been found necessary to provide these safeguards, I do not see why they should be dispensed with in my country. I would only recapitulate and say this, that your financial position does not impose upon you the necessity that the Calcutta landholder is not principally, if at all, responsible for the present state of affairs in Calcutta. If he is responsible, the Government is equally, if not more largely, responsible. The state of wages in this country is as much responsible. The ignorance that prevails amongst the lower classes about hygienic laws and conditions of health is also as much responsible. Why should one class suffer and not others? Lastly, in all civilized countries, this practice obtains. In England, where, gradually, in cases of sanitary improvements and town-planning, the practice has been growing of not allowing the excess of 10 *per cent.* over the valuation awarded, there, as I have said, the operation is limited, the hasty operation is safeguarded, because there the valuation is fixed by an arbitrator and not by a tribunal, and if the arbitrator does not give satisfaction, you have the right to go up before a jury. All these safeguards are wanting here. I say, therefore, that I have made out a very strong case for reconsideration of that provision of the law which does away with compensation that is granted for compulsory acquisition."

The Hon'ble MR. NORMAN MCLEOD said:—

"Your Honour,—Some days ago I expressed an impious wish that something might happen to our friend Mr. Basu. But I am glad to find that he is able to be here to-day and that his voice is as strong, as resonant, as ever. I am sorry, however, that I cannot agree with him in the attitude he has taken up with regard to the amendment put forward. Before I give my vote on this question I should like to explain why I support the Government. My

former colleague, Mr. Shorrock, who was on the Select Committee of this Bill, recorded a note of dissent with regard to the 15 *per cent.* compensation. Until recently I was generally in sympathy with that note, for the reason that I considered it would be upsetting an almost universal principle, and expressed myself accordingly. Since the postponement of the Bill in April last I have heard so much exaggerated sentiment applied to the hardship which the Bill would entail on a deserving section of the community, I have seen a memorial addressed to Your Honour on the subject which was so full of valueless generalities and so devoid of practical argument or convincing facts, that I determined to inquire fully into the matter for myself. I, therefore, took the opportunity of visiting many of the slums of Calcutta which might be expected to come into the proposed improvements. I was not only astonished but so astounded at the condition of things as I saw them, that I was forced to the conclusion that to pay an increased compensation for the improvement of such places would be almost an act of criminality; they were not fit for human habitation. If there was any law suggested, under which the landlords of these places would suffer drastic punishment, it would be more to the point. On the other hand, if any suggestion had been practically made to differentiate between the good and the bad, I would have been prepared to support the former, but as this has never so far been proposed the inevitable must occur, and the just suffer for the unjust. It is no answer to say that the fault is with the sanitary authorities in the past. Here, in the twentieth century, we are faced with strenuous opposition to what is admitted on all hands as a much-needed measure. What must have been the difficulties in the way of improvements when the light of sanitation was dark and fitful? I am glad to say I have the support of an almost unanimous majority of my constituency in the attitude I am compelled to take. The Hon'ble Member who moved the amendment has referred to the question of wages. I think, if he himself were to inquire into the matter, he would find that the state of matters was not as bad as he puts forward. Is there any country in the world where the workmen can absent themselves when they please, and can afford to be away for several months during a year?

"A lot has been said on the subject of land acquisition. I heard a Judge of the High Court here in Calcutta, who was the President of the Tribunal in Bombay, state that in his experience the compensation in Bombay erred on the side of liberality. There is one argument which was advanced by the Hon'ble Babu Hrishikesh Laha, and I am surprised that it was last put forward by the Maharajadhiraja Bahadur of Burdwan. We are continually met with the argument that the landlords and others, who object to this Bill, are loyal and law-abiding citizens. I cannot see the virtue in this argument, or the virtue in these people of being loyal and law-abiding. It should be inherent in every good citizen, when the benefits they derive from being so, so largely outweigh the disadvantages a contrary course would involve. The argument is one which almost raises a doubt as to whether such a state of matters exists, when it requires such constant reiteration."

The Hon'ble Rai Sita Nath Ray Bahadur said:—

"The previous speakers will kindly pardon me for saying that it was a waste of energy on their part to have taken so much pains to collect figures and to set forth reasons, when the Council, I mean the official majority, is not prepared to listen to arguments or reasons. But it might be said that this should have prevented me as well from speaking out. But, Sir, we all know that when one feels strongly on a subject, it is a great relief to him to speak out and not to suppress his feelings. Perhaps it will be said that the provision of the statutory allowance has been abolished in London and in Berlin, but pray do not flood us with English precedents or precedents from California or Mexico, when you are not prepared to give us the good things that are embodied in the English law. When there is anything favourable in the English law and we want it, it is then said that the circumstances of the two countries are so different, the peoples here are so unhomogeneous, consisting, as they do, of different sects, creeds and religions, that it would be dangerous to apply the principle of the English law to this country; but

when there is anything hard or unfavourable in English law and we resist its application here, then it is said that such being the English law you must have it.

"I cannot certainly regard it as a concession to provide that the statutory allowance of 15 *per cent.* should be paid in the case of areas which are situated outside the limits of the Calcutta Municipality. It comes to this, that the statutory allowance of 15 *per cent.* is only to be paid in case of waste and paddy lands which sell at the rate of Rs. 5 to Rs. 15 a cottah, that is, lands which have absolutely no value in the bazar, but nothing at all in the case of lands the value of which ranges from Rs 2,000 to Rs. 80,000 a cottah. Is this fair? There is no reason why there should be a special law required for the acquisition of land by the Improvement Trust, while the Corporation, the Port Trust and the Government have hitherto been content and will continue to acquire lands under the present Land Acquisition Act, though the lands will be in close proximity to one another. Why is it that a particular advantage should be enjoyed by the Improvement Trust which has hitherto been denied to the Corporation, to the Port Trust and to the Government? In every case the Land Acquisition Collector's award is considerably below the market value, and as such the claimant has invariably to incur very large expenses in engaging the services of engineers and other expert land-valuers and of pleaders and counsel, for properly putting forward his case and conducting it through the different courts and, it may be, bringing it up before the Privy Council. In the case of owners of residential houses, over and above the heavy expenses of conducting the land acquisition cases, they will have to engage brokers for the purchase of new lands and to pay heavy stamp duties and to engage attorneys to prepare conveyances, which, with incidental expenses, will more than swallow up the statutory allowance of 15 *per cent.* I can certify from my personal experience that, in contested cases, the expenses of litigation far exceed the statutory allowance of 15 *per cent.*, and oftener than not go to make a heavy inroad on the price of the land acquired.

"I do not know what dire offence the owners of property in Calcutta have committed that they should be deprived of the statutory allowance of 15 *per cent.* which has hitherto been paid to them and would continue to be paid elsewhere, and even to owners of property in Calcutta whose lands are to be acquired by other corporate bodies, as the Corporation, the Port Trust and even the Government. I regret that the analogy of Bombay cannot hold good here, for it was during a terrible crisis, when the citizens were panic-struck and hundreds and hundreds of people were daily dropping down dead from plague, and when all classes of people were flying away from the city, and when trade and commerce were nearly paralysed, that the citizens of Bombay, or rather their representatives, acquiesced in submitting to a sacrifice which, they thought, would go to help in the improvement of the city, and the consequent dislodgment of plague therefrom. However, I beg to submit that it would not be fair to attempt to throw dust into the eyes of the people by apparently providing the payment of the statutory allowance of 15 *per cent.*, which will be paid only in the case of paddy-fields and waste lands which have virtually no market value, while denying the same indulgence in the case of highly valuable lands in the heart of the city, and which are rising up by leaps and bounds every year. I submit it would be an act of great injustice to deprive the citizens of Calcutta of the statutory allowance of 15 *per cent.*

"I beg to assure the Council that the proposal to do away with the statutory allowance of 15 *per cent.* has created a sense of alarm, has caused a widespread dissatisfaction. There is no doubt that compulsory acquisition of lands, whatever may be its purposes, is certainly a hardship. It is, therefore, necessary that some allowance should be made, some indulgence should be shown, to the owner, for forcibly taking away his property. It is a terrible wrench.

"Give me a fair price for my property, a price which I can have in the open market, and I shall not claim compensation. But here, Sir, all sorts of excuses have been brought forward to make provisions which will go to reduce the market

value to the vanishing point. My friend, the Hon'ble Babu Bhupendra Nath Basu, was not far wrong when he, in a jocular vein, proposed in the Select Committee—'give us 50 *per cent.* of the market-value and we shall be satisfied'. All shades of public opinion are unanimous in condemning the abolition of the provision for the payment of the statutory allowance.

"I beg to propose the entire deletion of sub-clause (3), which has been added at the end of section 23, that is, clause (*a*), (*a 1*), [*now* (*b*)] (*b*), [*now* (*c*)] (*c*), (*d*) [*now* (*e*)] or, in the alternative, I propose the deletion of sub-clauses 3 (*a*), 3 (*b*) [*now c*)], 3 (*c*) [*now e*)]."

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said :—

"Sir,—These amendments from 507 to 513 are all identical. Several Hon'ble Members have already spoken on the subject, including the Maharajadhiraja Bahadur of Burdwan, and exhaustive references have been made to English laws and other matters. I do not intend to take up the valuable time of this Council by treading over the same grounds; but I think it my duty to offer my views as to the way in which legislative enactments on a subject like this should be made. I intend to deal with principles which are recognised by law. I must say, in the first instance, that there ought to be one law for all the subjects of His Majesty. There ought not to be one law for the residents and inhabitants of Calcutta, and another law for the rest of the Province. I beg to draw the attention of the Council to Her late Gracious Majesty's proclamation of 1858, in which it is stated that there should be one law for all the subjects throughout British India, irrespective of caste, creed and colour. With regard to the acquisition of land, certain principles had been adopted by the Supreme Legislature in 1870, and then there was a subsequent Act of 1874. Sir, I beg to submit that this 15 *per cent.* on the market-value is being looked upon and treated as an additional compensation. I consider that to be a misnomer What do we find in section 23 of Act I of 1894, which is sought to be amended? Section 23 says that, in determining the amount of compensation to be awarded for land acquired under this Act, the market value should be first taken into consideration. Then there are other things which have also to be taken into consideration, and I need not waste the time of the Council in repeating them; in the second clause of that section, it is laid down that a sum of 15 *per cent.* should be paid in addition to the market-value in consideration of the compulsory nature of the acquisition. What does that show? It shows that the market-value does not represent the full value of the property which is acquired. The market-value *plus* something represents the full value, and here the question is whether this can be looked upon as an additional compensation. There ought to be justice done in snatching away property from a person's hand who is unwilling to part with it I therefore submit, Sir, that the full value of the property ought to be given at least when it is acquired by compulsion. It is not a question of favour; some have chosen to call it a solatium, and I refuse to admit it It is justice what we expect. If you look, Sir, again to the principle which underlies section 55 of the Transfer of Property Act, which deals with the rights and liabilities of sellers and buyers, you will find that justice is the main factor in the ascertainment of value. I, therefore, stand upon these grounds and say that there ought to be one law for all the subjects of His Majesty. Full value should be given for all lands that should be snatched away from owners, and I hope that when the Hon'ble Members of this Council will consider the question from that standpoint, they will be convinced that the 15 *per cent.* is not an additional compensation: this taken with the market-value represents the full value and no one can deny it. I have no doubt that this Council will be guided by the principles of equity and justice in framing a legislation which will affect large interests. Let us see what are the grounds on which this departure is sought to be made, in respect of a law which was passed in 1870 and the principle which underlies that law, the Land Acquisition Act, which has been recognised for about forty years. I am not going to discuss what prevails in European countries or any other countries; there is no analogy, I should say, between Bengal and other countries. If you apply wholesale laws of principle which are applicable to

one country, to Bengal, well, and good, but the partial application of certain laws and principles in respect of certain matters cannot be accepted as being the correct standard. Then, what are the grounds for which there can be a justification for decreasing the compensation for land to be acquired? So far I have not been able to gather any grounds from the Statement of Objects and Reasons of this Bill, nor does the preamble show any special grounds. We find that the Board is going to be invested with powers to acquire lands in excess of their requirements—simply for the purpose of securing them a profit for the purpose of recoupment. In previous days' debates the question has been discussed that the Board would have powers to acquire lands which they do not actually require for their improvement schemes. Now they would be allowed to do that for the purpose of making a profit, whereas, on the other hand, the land-owners of Calcutta won't be given what they are justly entitled to as the full value of their property. Does this show any respect or regard for the principles of equity or justice? I venture to submit that it does not. These two things placed together, this enactment, if passed, will be considered as an unjust one. With these remarks I beg to move the amendment which stands in my name."

The Hon'ble MR. BOMPAS said :—

"Sir,—We have now come to the question of the 15 *per cent.* compensation. It is a question of money, a question of business. It is not a question of sentiment, and I see no reason why it should be discussed with heat. The loyalty of the Maharajadhiraja Bahadur of Burdwan is in his own hands, but I do not think that the speech which he has delivered has added to the dignity of the discussion. This provision of the Bill has been altered since the Bill was introduced in Council. The Bill, as originally introduced, followed the line of the Bombay Act and provided that whenever the Trust acquired land, the 15 *per cent.* compensation should not be paid. As it now stands, the Bill merely provides that the 15 *per cent.* shall not be paid when land is taken up for improvement schemes in Calcutta, that is to say, it shall not be paid when land is taken up for remedying the existing intolerable state of affairs. And in this connection I deny that it is a correct description to say that we are making a drastic change in the law of the country. On the contrary we are following the only precedent that exists in India—the precedent of Bombay. If we are not to follow the lines of the only law that exists in India, dealing with similar circumstances, the burden lies on those who would have us to depart from that precedent to show why we should do so. We are not making a drastic change in the law. It is those who wish us to remove this clause who ask us to do so. The Hon'ble Babu Bhupendra Nath Basu has given us an account of the development of the law relating to the payment of additional compensation in England and in India. I do not think that he took the story far enough. I think that the following brief account of the law in England will be admitted by him to be correct. There is in England nothing corresponding to the Land Acquisition Act in India. When lands came to be acquired under the Land Clauses Act, the practice grew up among arbitrators of awarding additional compensation which varied from 10 to 40 *per cent.* in different parts of the country and for different classes of property, but you will not find on the statute book of England any law which makes it compulsory to award that additional compensation. The custom grew up, and after a time, when Acts authorising the compulsory acquisition came up before Parliament, it was decided to restrict the award of additional compensation to the circumstances in which it was thought justified. The Hon'ble Member has referred to the practice on the Continent. He says it is the universal practice on the Continent to award this solatium. When I spoke on this subject on the motion to refer this Bill to the Select Committee, I quoted the case of Prussia where no compensation is given. In my official position I could not make such a statement without what I thought good authority, and if the Hon'ble Member contradicts me, I think he owes it to me and to this Council to quote his authority. Now, one of the restrictions which Parliament placed on the granting of the 15 *per cent.* compensation was that, under the Artisans' Dwellings Act of 1875, no such compensation should be paid when land is acquired for improvement purposes. This Act gave the municipal authorities power to acquire and clear away insanitary and

crowded areas. In that law it was laid down that in the acquisition of such an area no additional compensation should be paid. Mr. Chamberlain was then, as Mayor of Birmingham, laying the foundation of his fame, and he at once proposed his great improvement scheme to be carried out under the Act. In his speech introducing that scheme he exultantly said : 'The Council would have the power of compulsory purchase of the whole of the property without paying one penny for the compulsory sale. This was an important provision, for the British Parliament had for the first time recognised something higher than property. They would not have to pay the landlords what was termed solatium : they would be able to acquire the property at a fair market price.' That was the spirit in which municipal reformers welcomed the change in England. That was the principle laid down by Parliament, and it has not since been departed from. On the contrary, it has, within the last year or two, been extended to lengths to which we do not propose to follow it here. In the Act of 1909, which provided funds for creating main roads in England, the law gave power to the Board to acquire land extending for 220 yards on each side of the road, without paying any additional compensation, and in the same Act the Development Board may take up land for purposes connected with the development of agriculture or fisheries, for forestry, for light railways and other purposes without paying any solatium. The question is, if you expropriate a man from his land, what should you pay him? The obvious answer is that you should pay him the value of that which you take from him. You, in addition, pay him for any incidental damage, such as loss of earnings, which he may incur. It does not inevitably suggest itself that additional compensation should be paid for sentimental grievances arising from the loss of the land : and such sentimental grievance was stated to afford the justification for the 15 *per cent.* when it was introduced into the Land Acquisition Act.

"Now, what justification is there in the case of Calcutta for paying additional compensation to the owners of property? The critics of this Bill have from the first freely admitted that Calcutta sorely needs an improvement scheme I am not going to discuss the question of who is responsible for the present condition of Calcutta. I will leave it at what cannot be denied, that Calcutta was built when ideas of sanitation were most primitive and when men went about in *palkis*, whereas now they wish to go about in motors and in trams. Calcutta has therefore to be brought up to date, and primarily the duty lies on the owners of the land and buildings in Calcutta to bring Calcutta up to date. They have a moral duty as regards the disposal of their property. But owing to the multiplicity of owners and other reasons they will not and cannot take action. Therefore Government steps in and creates the Trust and places funds at its disposal. We are not going to pay additional compensation merely because we are going to help the landlords to perform a moral duty that lies upon them, namely, to see that their property is laid out in accordance with modern ideas of sanitation and convenience.

"We are here as legislators arranging for the expenditure of large public funds. What is our first and obvious duty, our duty to the public and our duty to the ratepayers? Our first and obvious duty is to arrange that this fund shall be expended with the utmost efficiency and the utmost economy. And any one who wants us to depart from that principle has to show very cogent reasons for the course that he proposes. I do not look at this state of affairs in Calcutta as a development of landlordism, and I have never said that they must be punished for their misdeeds in the past and the present, and I think the Hon'ble Babu Hrishikesh Laha must have been misled, for I never made any such statement in regard to landlords. In Select Committee, so far as I remember, I never used hard words of anybody. I do not blame the landlords for the attitude which they have taken up. In every country those who have vested interests have resisted reform. Their attitude is quite natural, but it is also against the public interest. I say no hard words, but I say to them that we have a duty here to see that these sums entrusted to us are spent with the utmost possible economy and the utmost possible efficiency. And it is no light matter that 75 lakhs of rupees—to adopt the estimate of the Hon'ble Babu Bhupendra Nath Basu—should be diverted from the improvement of Calcutta. This sum spent in Calcutta will be the saving of many lives.

"We have recognised that a 15 *per cent.* compensation should be paid when you acquire lands outside Calcutta for the development of the suburbs, because there you are not to rectify the errors of the past. There at least there is no moral duty for the owners of property to make good the evils that have grown. There we are laying out property with an eye to the future and to avoid the evils which have arisen in Calcutta, and there we are prepared to follow the ordinary law of the country when land is not taken under the peculiar circumstances which exist in Bombay and in Calcutta. We recognise that the opposition of this procedure in Calcutta is not unnaturally greater than in Bombay. In Bombay there was no opposition. Some of the provisions of the Bill were greatly contested in Bombay, and with some heat. But when the clause came up, in which it was provided that 15 *per cent.* compensation was not to be paid, there was not even a comment. It passed without a word, because the Bombay men remembered the terrible lessons of plague and they recognised that their city had to be put in order. and that they should get the utmost possible value of the money they were paying. I submit it is our duty to adopt the same view of the matter I know that there are grounds why the prospect of the improvement scheme should create more consternation in Calcutta than in Bombay. I would willingly admit, as the Hon'ble Babu Bhupendra Nath Basu has asked me to do, that certain classes of the population will be affected by the improvement scheme more in Calcutta than in England. In England, when dealing with congested and insanitary areas, the better class of population have been able to move out, because, in every growing city provision is made in advance for the laying out of healthy suburbs, so that the unhealthy quarters of the town are left to be occupied by people earning weekly wages, to whom removal is no great hardship. Within the last decade a population of 100,000 has been added to Calcutta and its suburbs. If there were any such increase in any town of Europe, you will find suburbs would be growing up; whereas, here, this extra 100,000 have had to crowd in the already existing over-crowded suburbs or quarters of Calcutta. There is therefore a considerable middle-class population living in their own houses in the most congested and unhealthy parts of the city, and these men have a strong sentimental objection to leaving what are called their ancestral houses, though they are scarcely ancestral houses in the English sense of the term, for they have mostly been occupied for but two or three generations. That, however, is not a consideration which can be raised or which should affect our judgment on the present question. It is admitted on all hands that we must have improvements in Calcutta, which will involve the displacement of many people of this class: the more deeply their feelings will be hurt, the more nearly religious is their feeling for their homes, the less relevant does it become to suggest that the payment of 115 rupees instead of 100 rupees will make the difference between content and discontent.

"There is only one other matter that I will refer to, and that is the note of dissent which the Hon'ble Mr. Shorrock appended to the Report of the Select Committee. Of course my position is somewhat strengthened when notes of dissent of contrary purports are appended to the Bill. The Hon'ble Members who support this amendment anticipate that the denial of the 15 *per cent.* will cause the greatest wrong and hardship. On the contrary, Mr Shorrock contends that, if it is given, it would make no difference to anyone, for his idea was that if no additional compensation is payable, the Land Acquisition Collector will naturally be more liberal and that he will practically include the 15 *per cent.* in his award. Mr. Shorrock is a practical man of business with a knowledge of human nature, and I am willing to concede that there is something in his contention, and so far as there is anything in it, it may serve as some consolation to the mover of the amendment. But I know more about the land acquisition work than the Hon'ble Mr. Shorrock, and I do not think that the Collector's award will be increased by anything like 15 *per cent.* It may be increased by 5 *per cent.*, but even if it were as much as that, that is not at all the same as handing over to the owners of property the whole of the 75 lakhs which are to be saved and spent on improvements in Calcutta.

"There is one remark by the Hon'ble Rai Sita Nath Ray Bahadur, and similar remarks have been made elsewhere, to which I think I will refer. It has been said that in Bombay there was a crisis, and that was why the Bombay people took to the improvement scheme so eagerly, and that conditions in Calcutta are far more satisfactory. We do not know what the death-rate of Calcutta is. It is a city of immigrants. It is a matter of common occurrence that people, who had come here for business and have lived here, go to their native villages to die when they grow old or are seized with chronic disease. Those deaths are not recorded. But we do know what havoc certain diseases make in Calcutta.

"When a man is seized by plague or cholera or small-pox he has no time to escape, and the death-rate for those diseases is fairly accurate. I find that the average deaths from those three preventible diseases totalled 6,800; and if we exclude 1910, which was singularly free from epidemic disease, the annual average was 7,500. I call those diseases preventible, not because they can be extirpated in the dreams of sanitarians but because in other countries they have been actually eradicated. People do not die of plague or cholera in London; and if there were an outbreak of small-pox in a single parish the newspapers would be full of it. This is not because that favoured clime enjoys any natural immunity; every school-boy knows what havoc plague wrought in England so late as the 17th century: all the big English towns in the forties and fifties of the last century were smitten with cholera. In Glasgow, in three successive epidemics, the death-rate varied between 10 and 14 per thousand of the population, while until the discovery of vaccination it was the exception for an Englishman to pass through life without an attack of small-pox. These diseases are preventible, and 40,000 persons died of them in Calcutta in the last six years. The Hon'ble Member says that there is no crisis; I say that there is a chronic crisis.

"With all this it is idle to say that we should wait for a crisis to take up the improvement of Calcutta. We owe it to the tax-payers to effect an improvement in this city and also to see that, in doing so, their money is spent with the utmost economy. That, Sir, is the justification for the proposal in this Bill. I need not say more. I would also remind Members of the fact mentioned by you, Sir, in your opening speech. The Government of India is also responsible for the administration of the funds that it will place at the disposal of the Trust, and they have intimated that, in their opinion, this fund should not be applied in the way in which it is intended by the Hon'ble Mover in paying this unnecessary additional compensation to the landlords and property-owners, and that if such a proposal is persisted in, they will have to reconsider the question of whether such large sums should be placed at the disposal of the Trust and whether the money could not be spent on some more deserving object."

The Hon'ble MR. FILGATE said:—

"Sir,—An Hon'ble Member of the Select Committee says in paragraph 25, page 23, in his note of dissent:—'In conclusion I earnestly pray that the Bill may not be passed in a form which will go to displease a class of people—I mean, owners of property—in Calcutta.' It seems to me that here we have in a nutshell the reason of the strong opposition to the Bill, and certainly it looks very much as if the opposers do not want any improvements at all unless they can see their way to getting their pound of flesh. After all this is but human nature, and one cannot but admire the good and strenuous fight their representatives are making in this Council, as they are in honour bound to do all they can for those they represent. Calcutta will contribute $\frac{3}{4}$th of the cost, and the general taxpayer $\frac{1}{4}$th. Now, exclusive of the Calcutta landowners' representatives, have the other Hon'ble non-official Members of this Council a mandate from those they represent, and who will provide $\frac{1}{4}$th of the cost to support the amendment, and do they suppose for a moment that the travellers from all over the world, who visit this city by rail, or river, of the millions of jute cultivators of Bengal, would prefer to see their mites to the extent of a crore of rupees go into the pockets of the property-owners or

Calcutta (if the amendment now under discussion is carried), instead of being spent to brighten the lives and surroundings of generations yet unborn? Whatever personal sympathy an Hon'ble Member, who is not a representative of the landholders, may have, it will not justify his supporting the amendment. I go as far as to say, it would be a breach of trust to those he represents, if he does.

"The present Bill has the approval of the Government of India, and I believe I am correct in saying, is approved of and sanctioned by that enlightened and far-seeing Secretary of State who has done so much to meet the wishes and just aspirations of His Majesty's subjects in India. If this amendment is carried, is it not likely that he may ask himself, 'Have I been wise in giving a non-official majority to a Council who carry an amendment in favour of one class instead of the whole community, who will have to pay the larger share of the cost'? Whereas, if the amendment is rejected, what an unanswerable argument for all time to those who have questioned the wisdom of his statesmanship!

"*Experientia docet* surely is the acmé of sound law-making and legislation, and to profit and be guided by the working and experience of similar acts in India, the British Empire and other countries. In paragraph 24 of his note of dissent, page 28, an Hon'ble Member of the Select Committee, with reference to clause 14 (*2 a*) [*now 9(1)*], remarks:—

> In Calcutta the first Improvement Act begins with the latest innovations adopted in England after 20 years.

"I feel assured that the Hon'ble Member's dearest wish is to see this Council a progressive one, but if his suggestion was accepted, would we be progressive, or retrograde? The principle that has now come to be accepted and acquiesced in by the owners of property in England and other countries surely is good enough for the owners of property in Calcutta, and I hope the Hon'ble Member I refer to will pardon me for having hoped that since he has recently visited England, he may now be of opinion that we should begin where they have left off and take a broader and more enlarged view of the question, not the parochial one. Especially, after reading in the public press his speeches for the British workman, after listening, to his championship of the landlords and property-owners this morning, I am afraid he withholds the sympathy he has for the English workmen from his own countrymen—the Calcutta workmen.

"The cry is being heard all over this vast continent for improvement and expenditure on sanitation. What an example for the rest of India to see this, the first enlarged Bengal Legislative Council, with its representatives of all classes of the community, carrying an amendment, the effect of which would be to put into the pockets of owners of property in Calcutta an enormous sum, and whose same property has increased in value by leaps and bounds, not by lavish expenditure of the owner, but by improvements paid out of the rates and taxes of the people! I hold no brief for the Government. I speak for those I have the honour to represent, and I appeal not only to my fellow Bihari colleagues but to every non-official Member who is not representing the Calcutta property-owners to oppose the amendment. Before actually recording your vote, ask yourself—am I voting as the majority of those I represent would wish me to do?

"I believe there is a feeling amongst some of the non-official Members that, in the future, if the 15 *per cent.* was to be disallowed in this instance, it might be taken as a precedent generally in land acquisition cases. I myself have no such fears.

"If you, Sir, and this Council will excuse my further trespassing on your valuable time, I will go further and appeal to the Hon'ble Mover of the amendment and his supporters not to press for a division, but even ask him to withdraw it. The Bombay Act has been in force for some years now, and

I believe is working satisfactorily. To any one who knew Bombay 30 or even 20 years ago and now visits that fair city, it must strike him as most remarkable what has been done, and compares favourably with any city improvement in the world. Surely Calcutta is not going to let Bombay oust them from the title of the second city in the Empire.

One of the Hon'ble Members of the Select Committee, in his note of dissent, with reference to clause 14 (2*a*) [*now 9 (1)*] of the Schedule to the Bill, paragraph 7, page 15, says: 'Very probably the people of Bombay did not raise any objection, as they thought any sacrifice would not be too great for the purpose of escaping from the ravages of plague which was then raging in a virulent form. The conditions prevailing here are fortunately very different, and there is no necessity for the inhabitants to make such sacrifices on that account.'

"Is it a fact that to-day, hidden away from the magnificent streets and palaces of this city, there exist spots and so-called dwelling-houses that would be a disgrace to an African village, and that as long as these danger-spots remain in your midst they are seed-beds for propagating plague, cholera, small-pox, and enteric, and should (which God forbid) a serious terrible calamitious epidemic start from one of these spots and sweep over the city, carrying off thousands of its inhabitants, rich and poor, what would be the feelings of any one who had delayed, for his own personal gain, their clearing away and improvement? Wealth and riches entail responsibilities on those who possess them towards their poorer, less fortunate neighbours and fellow-creatures. Calcutta owners of property must be prepared to make certain sacrifices. Surely it is better to make these sacrifices while there is still time before a serious epidemic would entail still greater sacrifices, and perhaps even life itself.

"All the world over the ancient rights and privileges of the landlords are being modified. I would draw the Calcutta landowners' attention to the fact that, thanks to the solemn and sacred pledge of the British Government under the permanent settlement, the land-rent payable to Government is, I believe, about three rupees an acre only, and they should bear in mind that if they press and stand too much upon their rights and especially claim the 15 *per cent.*, it is quite possible that not only landlords outside Bengal but all classes of the community from one end of India to the other may raise the question—why should the landlord of Bengal be so particularly favoured?

"It is very natural that the landlords of Calcutta may say, it is all very well for you to appeal to us—you who do not own a *dhoor* of land or even a grass hut in Calcutta (I only wish I was fortunate enough to own a cottah or two in the vicinity referred to the other day in Council), but I fully sympathise with them as I happen to own a small portion of the soil in my own country, Ireland, and I can assure you that Irish land-lords have had to make far greater sacrifices under the various Land Acts, compulsory acquiring of land for labourers' cottages, etc., than any Calcutta landlord is ever likely to have to make if this amendment is withdrawn.

"This city is to have the unique honour, in conjunction with Bombay and Delhi, of a visit from their Gracious Majesties the King-Emperor and Queen-Empress at the commencement of the new year. What an opportunity the land-owners of Calcutta have of giving real, practical proof that they are above the sordid question of pounds, shillings, pence, in considering and caring for the welfare and well-being of His Majesty's poorer subjects—a tribute far above rubies and surpassing anything that was ever laid at the feet of a Cæsar.

"In all human probability even the youngest of us here to-day will have passed beyond the 'bourne' by the time the Trust that we are here to initiate will have come to an end, but if there is no division over this amendment, what an epitaph future generations can inscribe to the memory of this Council—"the first enlarged Bengal Legislative Council, but the most enlightened and progressive."

"I hope you will take my remarks in the spirit which they have been made, and that I have not said a single word that would lead you to suppose you have not my personal sympathy. I consider that the landlords are the natural leaders of the people, but a leader either in military or civil life must be prepared to make personal sacrifices. You have the opportunity of doing so. Don't lose it, and if you accept my appeal, in 1971 not only will Calcutta stand as the second city in the British Empire, but *Urbs prima in India*, and her citizens of that day will be able to quote the words of the classic poet—

'Where shepherds once were housed in homely sheds,
'Now towers within the clouds advance their heads.'

And if this Council accepts the advice of the High Court on the question of an appeal, the remainder of the quotation can be omitted—

'We viewed the ground of Rome's litigious hall,
'Once oxen low'd where now the lawyers bawl.'

"If I have given too free a translation from the original, I appeal to the Hon'ble Member for the University to put me right.

"With these remarks, Sir, I beg to oppose the amendment now before us."

The Hon'ble MR. DIP NARAYAN SINGH said :—

"Sir,—I feel it my duty to say a few words in support of the amendment of my Hon'ble friend, especially as I feel that this is the last chance the Hon'ble Member in charge of the Bill has of at least putting a coat of sugar over his bitter pill.

"Sir, I shall not discuss the arguments of 'efficiency' and the analogies to the 'Bombay' and 'English Acts', that have so constantly been brought forward before the Council during these debates. Efficiency, I think, Sir, has been made too much a fetish of, and the Bombay and English Acts have been converted into double edged weapons of offence and defence during the present discussion—weapons, Sir, that have been freely used, both to guard the existing clauses and to demolish them. I support this amendment—and I appeal to my colleagues, both official and non-official, to support it—on another ground. My strongest argument, Sir, is that, on this question, Indian educated public opinion is almost unanimous, and that its rejection—apart from the hardship that it may cause to persons directly concerned—will create an amount of discontent that will far outweigh any monetary benefit that may accrue to the Trust. I at once admit, Sir, that your drastic treatment will succeed in curing and cleansing some of the sore spots of Calcutta, but is this all that has to be thought about? Will you not consider, Sir, whether such heroic doses of strong antiseptics might not poison the blood, touch the brain, or affect the heart of your patient? Sir, it is not only a question of whether a certain method is efficient or not: we have also to see that it is suitable to the times and circumstances of the country. I can understand many of the clauses of this Bill being acceptable to the general public fifty years hence; I can understand their being supported even by a majority of the citizens of Calcutta, but that only when the people of this country have advanced in education to the same degree as that of England or other European countries. I shall go a step further: some of the clauses of this Bill would not have been so strongly opposed even now, had there not unfortunately existed a feeling of distrust with regard to the tribunal that has been created. But, Sir, having regard to the present condition of the country and to the almost absolute unanimity of educated Indian opinion on this point, I am afraid I cannot see my way to advise the Council to reject this amendment, as my Hon'ble friend Mr. Filgate has done. Sir, perhaps the Hon'ble Mr. Bompas will say that he is not so sure about the Indian public opinion being unanimous on this point. Well, Sir, my assertion is certainly very difficult to prove by facts and figures, but all I can say is this that if this amendment is rejected, it will be rejected in the face of the unanimous protest of almost all Indian non-official Members of this Council—Members, Sir, who certainly represent, if any body of

[*Mr. Apcar; Mr. Bradshaw, Babu Deba Prasad Sarbadhikari.*]

men can possibly do so, educated public opinion, in Calcutta and outside Calcutta. With these words I strongly support the amendment."

The Hon'ble MR. APCAR said:-

"Sir,—I had not intended to intervene in the discussion of this question, but the Hon'ble Member who spoke from the rostrum has induced me to break my silence. I congratulate him on the very eloquent speech he has made. But I think that possibly he has devoted his time more to polishing his periods than to studying the subject of this Bill. He presumes that all our opposition is due to our desire to obtain this 15 *per cent.* compensation. I think, Sir, that he could not have been attending even in the discussions here if he has not realised the conditions under which the operations of the Board will affect ten times as numerous persons who are not landlords, but those who are tenants and occupiers who will suffer under this Bill. He does not appear to have followed our proceedings sufficiently to understand that when the question of an improvement scheme is before the Board, the Government have refused to allow a direction in the law that the Board should ever consider or make any inquiry into it before declaring an area to be an unhealthy area; the Government have refused to allow a direction that the Local Government should inquire into a scheme submitted to them by the Board for sanction, or should specify the area to be declared an unhealthy area. On my own part, I am the least interested in any possible prospect of whether or not this compensation is withdrawn, and I do not think that it is fair that he should attribute a sordid motive, as has been attributed, to all those who are taking part in this discussion in opposing the various clauses of this Bill, to bring it in consonance with the principles that govern the same question in England and in endeavouring to obtain an amelioration of the hardship that may be caused by the stringent terms of this law."

The Hon'ble MR. BRADSHAW said:—

"Your Honour,—In the early stages of the discussion on this Bill, the Association I have the honour to represent passed a resolution in favour of this 15 *per cent.* clause, and it is because I think some of my non-official friends may think I come with a mandate from my constituents to support this that I do not wish to give a silent vote. Sir, I come with no mandate, but with their express wish that I should have a perfectly free hand to vote as I think best in the true interests of the public.

"The resolution passed by the Calcutta Trades Association was a qualifying one; it was chiefly in favour of compensation being granted to the poor individual householder and the tenant who would be turned out of his house, and left to find a home elsewhere, perhaps at an increased cost. But, Sir, I feel it is very little of this 15 *per cent.* compensation that would find its way into the pockets of these evicted people. As regards the property-owner, I am of opinion that, having regard to the great increase in the value of property in Calcutta and presuming the Trust will have to pay the prices at present ruling, I think he will be fully compensated.

"Only two days ago I heard a man congratulating himself that property he had purchased only three years ago for Rs. 35,000 had just been valued at Rs. 70,000. One could quote similar instances. Why the public should be made to pay 15 *per cent.* additional profit on transactions such as these, I fail to see, and, in view that those who really deserve the compensation are not likely to get it, and in view, Sir, of the important statement made by your Honour at the beginning of this debate, and also with the full belief that throughout this Bill the Government are desirous only of doing that which will do the greatest good for the greatest number, I support the Government and oppose the amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—I am sorry that in spite of my repeated endeavours to catch your Honour's eyes, some speakers have intervened between the Hon'ble Mr. Filgate's *naive* demand for aid for the correctness of his translation of his furbished

up classics and early errors which, if not corrected betimes, were best left alone. Descent from the *rostrum* to *nostrum* is apt ever to be a pitiful bathos, specially when it has a distinctly bucolic tendency. Corrections under such circumstances being too late, I shall direct myself to the amendment that stands against my name. According to the freshly laid down dictum of Bihar *georgics*, I have to do so at the risk of being considered guilty of breach of trust, for the learned constituency, by whose suffrages I am here, are supposed to be in no way interested in the issues before the Council. A legitimate sequence of such an *obiter* would be that when an Orissa or a Bihar measure is on the table, Calcutta Members must content themselves with giving 'silent sensible votes', upon which one of your Honour's predecessors in office wanted to put a premium. In being thus guilty of breach of the kind indicated I shall be in excellent company, for when a much less drastic measure of spoliation, on the strength of which we are asked to accept this enactment, was passed, a previous representative of the University of Calcutta, no less than the Hon'ble Dr. Ashutosh Mukherji, who has now been translated to a different sphere of public usefulness—where the Hon'ble Mr. Filgate's classic translation will fall flat—was guilty of as gross a breach of trust, if not grosser, though his protest on that occasion was no more effective than mine is going to be.

"I share the regret of the Hon'ble Mr. Bompas that a certain amount of avoidable heat has been introduced into the deliberations of this Council, while we are in view of the end. The responsibility of the location and the apportionment of that heat will be no useful topic now to pursue. We have been told to-day, Sir, that our duty here as a legislature is to the public and to the tax-payer. As I read the vigorous protests of the Hon'ble Maharajadhiraja Bahadur of Burdwan and those who have spoken in a similar strain, we have another duty, if not higher, certainly equally high,—duty to what has been considered to be the prevailing law—duty to ideas of order and orderliness—duty to subsisting ideas of private rights and proprietorship—which, though not for the first time, are being steadily assailed. In this clause, which we are now seeking to amend, it is no answer to the criticism that may well be aimed against it that in Berlin or, with regard to certain classes of properties, in London or in Bombay, such an attack has already successfully been made. If a proposition like that could be carried to its legitimate consequences, the grievances of the Hon'ble Rai Baikuntha Nath Sen Bahadur would disappear—one class and one tract having a different law from another. If the logic of the Hon'ble Rai Bahadur's objection could be carried far enough in the way that this clause seeks to carry it, to-morrow the Acquisition Act would be so amended as to do away with the whole of that 15 *per cent.* clause for all tracts and all classes, and then the socialistic propaganda of this enactment could have its due and legitimate position. I do not know, Sir, whether the objections of the Hon'ble Rai Baikuntha Nath Sen Bahadur are going to be met in that particular way, and, if they are, I do not know how long the rejoicing will last of the kind that the Hon'ble Mr. Filgate has thought fit to indulge in to-day, and to the strain of which he asks the Bihar representatives, who have nothing to do with Calcutta and Calcutta lands, to vote with him, One trembles to think as to how or when the *Frankenstein* thus raised is going to be laid, if at all, or whether it is to go the way of other *Frankenstein*, of other lands and climes—too terrible to recall. With a propaganda like this about, little wonder that some heat should have unconsciously crept in. Sir, I do not wish to participate in that controversy; I prefer to confine my observations to what appertains to be my own legitimate domain, that is, of the lawyer that bawls.

"Before we get away from the point, I should like to put right the Hon'ble Babu Bhupendra Nath Basu, who was followed by the Hon'ble Mr. Bompas, with regard to the question of the 10 *per cent.* that is allowed under what the Hon'ble Mr. Bompas calls unrecognised statutory enactment. This 10 *per cent.* is given by the old Common Law Practice which had always had acceptance in the law courts of England and which was embodied in a more liberal spirit in our own old Land Acquisition Act of 1870. Distinguished and unchallenged authority on Compensation lays down that the fact that when lands have been taken compulsorily, it does alter the principle of valuation, and the

customary addition of 10 *per cent* is, strictly speaking, a part of the valuation of the property under the circumstances. As has been pointed out by the Hon'ble Rai Baikuntha Nath Sen Bahadur, in order to arrive at what ought to be the proper assessment and value under the circumstances of the case, they took the market-value *plus* this 10 *per cent.*, which they regarded not as an addition but as an integral part of the value to be paid to the person whose land is going to be taken up compulsorily. That 10 *per cent.* does not represent anything like what is proposed to be embodied in our own Bill in the way of a doubtful solatium, namely, the payment of certain costs which the party aggrieved may have to incur, not in acquiring a new habitation but in placing his case before the Collector, and sundry other matters dealt with under that Act. Therefore, on the basis of time-honoured Common Law, which the Statute had never considered it necessary to enact formally, compensation used to be added to the price of the land in this way. The Imperial legislature proceeded to regularise it in 1870, and after a great deal of deliberation, it decided to add 15 *per cent.* compensation on what was known then as the market-value. The Hon'ble Babu Bhupendra Nath Basu has casually referred to the proceedings on that occasion, which really are the basis of the law that now obtains. We are contending for the retention of that law, and it is of the utmost importance to realise how the matter stood when the present system came into vogue, whatever the result of our amendments may be.

"The Land Acquisition Act of 1870 (X of 1870), when introduced in Council, did not contain any provision for payment of 15 *per cent.* extra compensation, nor did it exempt any award or agreement under the Act from stamp duty. In supporting the introduction of the clause at a later stage Sir John Strachey (then the Hon'ble Mr. Strachey) said :—

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The intention of the Government, when this measure was first brought forward, was to take the law of England, as interpreted by the English courts, as the basis of our legislation.

Sir James Stephen said that the legislature had merely adopted the law of England, and done so in a spirit of somewhat greater liberality towards the public than that which prevailed in England. According to the law of England, the compensation was assessed by a jury summoned by the Sheriff, and generally presided over by an assessor. No rules had been laid down to guide them in the exercise of their discretion, and the consequence was, that a branch of business had grown up in England, eminently profitable to lawyers, eminently profitable, in some instances, to those who received compensation, but in no way profitable either to the undertaking for which the land was acquired, or to the general interest which the public had in a fair and equitable arrangement on such occasions. During the early history of this subject, those from whom lands were taken used to get enormous compensation. After that there was a considerable reaction, and cases of hardship sometimes occurred the other way. But at length, without any explicit legislative provision on the subject, but partly by practice, and partly by the decisions of the Courts of Justice, a sort of general rule was arrived at, more particularly in London, with regard to the amount of compensation to be awarded, and that general understanding was, that you were to pay the fair price which a prudent purchaser would accept for the property, *plus* an addition for the forced sale, which, by practice, was taken at 10 *per cent.* Besides this, special compensation was made for severance, for expenses of removal, and any damage to trade that might result.

"The Hon'ble Mr. Bompas has said that because the principle of doing away with extra compensation, such as was allowed under the Act of 1870 and the existing Land Acquisition Act, has been accepted in Bombay, and partly in London, with regard to acquisition of a certain restricted character, the onus lies upon us to show that what we seek for ourselves is right and just, and that the onus is not upon him. I desire to argue quite the other way. Unless it is affirmatively shown why the principles recognised by the legislature in 1870 by such distinguished authorities as those I have mentioned should be departed from, we have no right to make a departure from that practice, particularly because there are no special extraneous circumstances quoted in justification of that departure. The Hon'ble Mr. Bompas complained that the Hon'ble Babu Bhupendra Nath Basu had not taken the history of the English legislature on the subject far enough, and he proceeded to

supplement that history in a way that is certainly instructive and interesting. I should like to supplement further his statement by referring to a piece of legislation on a line of our own, which was attempted unsuccessfully in 1892 to be forced upon the British public, by availing of the growing power of socialistic principles which, under peculiar circumstances, succeeded with regard to the Working Men's Housing Act of 1890. They attempted a still more revolutionary and drastic measure in 1892 in the shape of what was called the Local Authorities' Purchase of Land Bill, by which indefinite purchase of land for communistic purposes was attempted by some members of the present Cabinet. That Bill very deservedly failed. The debate on that Bill enunciated and brought out certain principles which have very vivid application to the state of affairs that we are dealing with here and which made the British legislature reject the larger measure of spoliation (let us call it for convenience). The Hon'ble Mr. Haldane, as he then was, and the Hon'ble Mr. Asquith led the attack on property-owners, which they have successfully led for a long series of years, till they brought property-owners of England to the straits that the last Parliamentary Bill represents. In speaking against that measure which sought to authorise acquisition of land for indefinite purposes, with application for twenty years, the Hon'ble Members of Parliament who opposed the Bill drew attention to the ideas of property that did weigh with the British legislature at the time, but which, we cannot hope, will weigh with this Council to-day.

"Mr. Beauman, who lead the Opposition Bill, pleaded hard in the interest of the inhabitants of all counties that security in properties should be maintained. He claimed to be old-fashioned enough to believe that what was wrong in morals could not be innocent in politics. To make war upon property was to make war upon human nature, as Burke had said. Of all the blundering and plundering fallacies propagated by modern radicalism, this doctrine of unearned increment was the worst. The real issue raised by the Bill, he said, although it had not been avowed, was whether private ownership in land was to continue to be recognised by the legislature. If it was not to be recognised, let them say so honestly and openly, and let the State or the local authorities buy out the existing landlords. Let them not pretend to recognise the principle of private property in land and then destroy that property piecemeal by depriving the owners of their ordinary rights, privileges and advantages of possession. They had been told that property was only an idea, that it had been created by law, and that it could be destroyed by law. The idea of private property consisted in the established expectation in the apprehension of the power to derive certain advantages from possession. It was that established expectation, that certainty of power based upon the law of the country that enabled a man to acquire property and induced him to improve it. If that established expectation was destroyed, that certainty diminished, the whole of our complex society would tumble to pieces like a house of cards. According to Bentham, security consists in no shock or derangement being given to the expectation which has been founded on the laws of enjoying a certain portion of good. The legislator owes the greatest respect to this expectation to which he has given birth. When he does not interfere with it, he does all that is necessary to the happiness of society; when he interferes with it he produces a proportionate amount of evil.

"Mr. Asquith, who spoke later on in the debate, reassured the House that the Bill would enable the local authority to get rid of the system of leasehold tenure in towns where it was injurious. He proposed to achieve this by giving in the shape of compensation everything that their landowner would be entitled to. He would give him the full value of the land for the time being, he would give him additional compensation for disturbance and further compensation for severance. He pleaded hard for this special measure because public authorities had to pay exorbitant prices when they wanted to buy lands and had to come to Parliament for a provisional order which enormously increased the cost. He therefore pressed hard

in the interest of the community that the local authority should get land after paying the owner the full value with compensation for the damage sustained.

Mr. Lawson said :—

There was, after all, a great deal in the sentiment of home, but would any man get compensation for the sentiment of home, which he would lose under this Bill? Not one penny, nay, he doubted whether a man would get any compensation for goodwill and connection, which went a long way to make the value of his holding. There was a provision for compensation for disturbance, but would that cover the rightful claims of tradesmen who had invested capital in the hope of future profit, and who had not yet obtained the full and just meed of their efforts and enterprise? Then there was to be compensation for improvements, but there were some improvements which might add to the value of a house in the eyes of an owner without adding to its letting value, and for such improvements what compensation would be given? If this Bill were passed no man would be secure in the occupancy of his house (Hear, hear). For his part he thought it should be the aim of all land law reformers to identify occupancy as closely as possible with ownership. The Bill would plunge county councils into a Serbonian bog of mad speculation, and the results might be very unsatisfactory.

Mr. Ritchie, who had in 1890 successfully piloted the Housing of the Working Classes Bill through Parliament, said that he could not go further. He was no less emphatic in his condemnation of the Bill. He said :—

J. S. Mill had never proposed to take away the unearned increment (Mr J. Morley and Mr. Haldane expressed dissent) What he proposed was some arrangement of taxation and rating. He was aware that several proposals had been made with regard to tapping the unearned increment by taxation, but such a monstrous proposal as that contained in the Bill had never been made. (Hear, hear). The Right Hon'ble Member for Derby had never made any such proposal, and he would have been glad to ask the Right Hon'ble gentleman, if he had been present, whether he adhered to the opinion expressed by him on this matter in 1874. Unfortunately, the Right Hon'ble gentleman possessed the peculiarity of not being present on occasions when awkward points were raised (Hear, hear, and laughter), although he was sure his absence was accidental on the present occasion. The Right Hon'ble gentleman had, at Oxford in 1874, said :—

I shall not discuss with you the unearned increment of land. That is an idea so illogical, so unreasonable, so perfectly unjust and so absolutely 'philosophical' that it does not require a refutation. Neither shall I inquire into the nature and origin of property in land. I am content to assume that a man's right to his lands depends on the same principle as your right to the coat on your back, namely, that you have paid for it.

"I take it, Sir, the Hon'ble Maharajadhiraja Bahadur of Burdwan's protest, that has been sadly misunderstood and misinterpreted, was against the likely production of such a mischievous state of things as the Bill devised to bring about and which Parliament rejected. I shall not, however, pursue the topic further because we have much to engage our attention to-day.

"I am not quite sure that, in spite of the Berlin and London and Bombay precedents that have been quoted, we are not doing something of the kind that the rejected Land Purchase Bill wanted to achieve but failed. It is certainly much in advance of what the Working Men's Housing Act had achieved earlier and which Mr. John Burns in 1909 did not succeed in taking very much further.

"Sir, the expectations that have been aroused and that, according to Mr. Beauman, ought not to be lightly set aside, were embodied deliberately in our Land Acquisition Act of 1870. When the Buildings Commission met after the Housing of the Working Classes Act had been solemnly enacted by the British legislature, although they had to complain of extraordinary prices having been paid in certain instances and although they had to introduce a rule of thumb about the twenty-five years' assessment referred to by the Hon'ble Mr. Bompas, they not only refrained from urging that the 15 *per cent.* should be done away with, but they actually recommended that that compensation should continue. And when, in 1894, the present Land Acquisition Act was passed, all that had actuated the British legislature in doing away with the Common Law of practice of compensation with regard to particular matters

and particular areas had no influence on the Indian legislature. Although the whole of that wisdom and knowledge and learning was available to the Imperial legislature, they never thought fit to touch that 15 *per cent.* compensation. Successive legislatures in this country and responsible bodies like the Buildings Commission, that had to deal with the situation, never suggested the desirability of interfering with this matter, whatever necessity for curtailment of expenses of acquisition may have existed. And expectations were deliberately and repeatedly raised, which are now to be belied.

"We have been told by the Hon'ble Mr. Bompas that this 75 lakhs of rupees, which would be paid as compensation and which would thus go into the land-owners' pockets, if the amendment is carried, can be applied to very much better purpose in effecting the improvement scheme. I would go further and could, in the same strain, argue that 150 lakhs of rupees would effect many more improvements unquestionably; but would it be for that reason open to us to say that, because of the exigencies of the situation, we shall not give fair market-value to the owners but a little less than market price, on the ground that 150 extra lakhs of rupees would thereby go into the coffers of the Trust? The reduction would be an excellent cause and would probably be justifiable on arguments like these. Could we go further and would it be open to us to say that, because a property ordinarily is valued at 25 years' purchase and because it has been in the enjoyment of a family for more than 300 years, that the owner should make a free present of the property in the way that the Hon'ble Mr. Filgate thought the land-owners of Calcutta may be expected to do in view of the approaching Imperial visit? The reference to the gracious occasion in this connection is unfortunate. In view of the Imperial visit some people thought that consideration of contentious measures like these should stand over so that strife and disputes might not animate the component parts of the society, when peace and good-will ought to pervade and people's energies and attention be more pleasurable. Property-owners will have to defend in the best possible manner their rights and privileges such as the law, deliberately worded, affords them, and regarding which expectations in the words that have often been repeated have been abundantly raised.

"The case of England, where differential treatment of property of a certain class under peculiar circumstances has been necessary, can never apply to this country. Calcutta is not a city chiefly of tenants, as has been erroneously supposed and said without any basis whatsoever, and the leasehold system which is supposed to have vitiated sanitation in general, which Messrs. Asquith, Haldane, Burns and Lloyd George felt bound to condemn, does not obtain here to any extensive degree. Most people in northern Calcutta certainly live in their own houses, though they have to pay dear for it. The Hon'ble Maharaj-Kumar Hrishikesh Laha referred to certain figures showing how property stands in Calcutta I tried also to get figures in order to show what *percentage* of Calcutta houses are residential and how many are tenanted It has not been possible to get that information in figures, but the fact is exactly as I have stated."

The Hon'ble MR. BOMPAS said:—

"I can give it to the Hon'ble Member."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"It would have been very convenient to have it in the early stages by way of dispelling much of our misapprehensions; if we are proved wrong much of our complaint would disappear. If we have not yet figures of the kind that I want, I have figures of another kind Those who have any considerable number of houses, and even those that have not a considerable number, may resort to what is known as the *hazuri* method, by reason of which, under an arrangement, all the rates and bills are put into one *nathi*, as they call it, and are given to one man instead of different men in different wards for the purpose of realising rates in the different wards. This *hazuri* Collector goes to the landlord and realises the owners' and occupiers'

rates realizable in respect of all his properties in a lump. If Calcutta was really a city of landlords with a negligible proportion of people living in their own houses, *hasuri nathis* would be expected to predominate. But no such thing. The number of these *nathis* in Calcutta is only 1,100 If my information is correct, they represent 2½ lakhs of owners' as well as occupiers' rates. Therefore, the half of that 11 lakhs may be regarded as owners' rates The rest are occupiers' rates; but the whole of that will not be occupiers' rates because owners live in their own houses, and have offices and quarters for their servants. Houses of that description also go into the *hasuri nathi*, and must not come under the category of tenanted house because they appear under the *hasuri nathi*. I do not mean to argue from this that less than 11 lakhs out of a total of nearly 65 lakhs or 64½ lakhs represent what may be called tenanted properties in Calcutta I am trying only to get an idea of the number of large land-owners and their properties that go under the *hasuri* system, in order to combat the prevailing notion that Calcutta is a city of long-suffering tenants in whose interests such a feeling appeal has been made. So far as the better portion of Calcutta is concerned, which will not be primarily affected by the Improvement Scheme, no doubt it is tenanted—portions like the Chowringhee quarters and the general European quarters. There, no doubt, tenancy is the rule. But the rule is otherwise in the northern quarters, and until figures are produced to the contrary, I shall never go away from the idea of things that Calcutta is a resident-owners' city and not a tenants'. The debate in Parliament that I referred to clearly shows that, even according to the Hon'ble Mr. Asquith who wanted to get rid of the monopolies of landlordism and the prevailing leaseholding system which has been a bane to the sanitary improvement of England, property has been in very few hands, and the owners have always resisted improvements which made it obligatory upon the British legislature to come to the rescue of the tenants, and make drastic rules which are unwarrantably sought to be introduced here merely because they are necessary and convenient. Where is the evidence that the present state of Calcutta that is sought to be remedied was brought about by landlordism? Many other causes are at work, which have been absolutely overlooked. Here the tenant lives in his own house for the most part, and even if his house is insanitary it is not because of landlordism, except perhaps in places like Bara Bazar, but because of the other circumstances which this legislation will never be able to overcome. They are due to their defective education, their want of notions of rudimentary principles of sanitary science and things of that kind, and not the least of which is inadequate assistance from the sanitary authorities in the way of water for flushing the houses and other necessities and conveniences that I need not refer to at this moment. These are things that you will never attach importance to, although you may take out of the landlords, as has been estimated, a crore of rupees—the amount representing the withholding of this 15 *per cent.* compensation.

"Your Honour has drawn attention to what the Government of India have recently said regarding the 15 *per cent.* compensation, and reference has been made to it by the Hon'ble Mr Bompas also Of course, it is not difficult to see what the inner meaning of that communication is; but may it not be given to us to hope that, if this Council should think that a real hardship will entail in consequence of the withholding of this compensation—whether it be 15 *per cent.* or a lesser amount that will be proposed in the subsequent amendments—is it not open to us to hope that, in view of that circumstance, the Government of India will be pleased to reconsider its position and make such other subvention and contribution as the exigencies of the situation may require? The contingency of having to make an increased subventio may never arise if the various financial schemes work well, as I have no doubt they will. Those who are opposing most the measure as a Bill will be bound to co-operate in its proper administration as an Act, as may be witnessed in the case of the opponents of the Universities Bill, among whom are to be found the staunchest workers under the Act. There is little chance, therefore, of the financial schemes failing, if there is whole-hearted co-operation of all concerned. If the Corporation, in its 2 *per cent.* contribution, is as lucky as we anticipate, no very serious disturbance of the financial aspects of the question need take

place, and at the same time it may be possible for us to give some of that compensation at least to the poorer people, which the landlords have been accustomed so long to get, even before the Act of 1870, when the arbitrator under the older Acts used to give them compensation in a much larger measure than since the enactment of 1870. We shall be disturbing very seriously and unwarrantably the prevailing state of things if compensation be withheld. With regard to other acquisitions it cannot be withheld till the Land Acquisition Act itself is improved in the way that this Bill is being enacted, and there will be palpable and indefensible invidiousness. So far as the Municipal Act is concerned—although the drastic measure of 25 years' assessment rule recommended by the Buildings Commission was adopted and although they had all that had been done in England—the legislature did not think fit to do away with that 15 *per cent.* clause. Therefore, the application of that principle in England at an earlier stage will not be an answer to our contentions in this legislature to-day, in spite of the fact that in the intervening period Bombay has lost that privilege. We are told that Bombay took the loss of this compensation very quietly and did not even raise a contention or comment. The answer to that has been already given, although it has been made light of: in Bombay it was a panic measure that they were dealing with. The Government tried to come to some arrangement with the people and the people did not do their duty. The Government was thus forced to adopt a measure which, in the then state of things prevailing there, the Bombay leaders did not think fit to oppose. Here there is opposition that ought to make some difference to the situation. It was no concern of ours if they did not choose to oppose the loss. Bombay has grievance with regard to the permanent settlement that obtains here and a variety of other matters, in spite of which Bombay landlords are better off than Calcutta landlords, and to them it may not have been much of a loss if this compensation was withheld. This may be reason enough for there acquiesence; moreover, they were dealing with a panic measure.

"Taking all these circumstances into consideration, I am definitely of opinion that, although a great deal of assertion has been resorted to on the other side, no real reason has been shown, either on the score of necessity or expediency or justice, why this clause should be enacted in the way that it is proposed to be done."

The Hon'ble BABU BHUPENDRA NATH BASU then got up to reply on the motion, and the Hon'ble THE PRESIDENT said:—

"The procedure seems to me objectionable. I wish to rule that when there are identical amendments, the gentleman who actually moves the amendment should have the right of reply. But as there has been some misapprehension, I shall allow the Hon'ble Babu Bhupendra Nath Basu to reply on this motion."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—With your premission I wish only to make some observations by way of reply upon this motion—not that I hope to make any impression upon my friends here, but that I believe it is just and fair only to ourselves that we shall place on record what we feel on this subject. It may be that posterity may find fault with us for having proceeded on these lines. But that is a matter which we are content to leave to the judgment of posterity. It is to me a source of regret that my friends, the representatives of Chamber and of Trades on this Council, should have taken an attitude on the present occasion different from what we were led to expect they would, when the Hon'ble Mr. Shorrock was on the Select Committee. Though it is a matter of regret to us, I have no cause to complain, for an Hon'ble Member may change his views at any moment before he records his vote. There is one observation which fell from my friend, the Hon'ble Mr. Norman McLeod. I do not think he meant to urge it seriously, but I believe it does require to be contradicted. He said that he felt some sympathy for those who, by the introduction of this change in the law, would be affected, but who were in no way responsible for the condition of things that has arisen in Calcutta, but he proceeded to say that they must suffer also for the guilty. That the innocent must suffer for

[*Babu Bhupendra Nath Basu.*]

the guilty, I do not think, is a sound proposition, either in ethics or in law, and I do not consider it necessary to adduce authorities, either in the domain of ethics or in the domain of law, to prove to my friend that the statement is not at all justified or warranted by the high precedents of morality or of justice.

"There is one other question that my friend referred to about the wages of our working classes, and he said, 'Where are the working classes anywhere in the world who are able to go home on a holiday and absent themselves from their work?' I would put a question in reply. I would say, where are the working classes anywhere in the world who are drawn from the land and who are the tillers of the soil and who come to cities and factories merely for a part of the year to supplement the resources that they derive from land, and if the working classes of my country had not got their hereditary ancestral lands behind, the profits to the capitalists now open in my country would have told a different tale.

"The Hon'ble Member in charge has disclaimed any heat in the discussion of this part of the Bill. Well, Sir, so far as I am concerned, I have shown no heat. I have lived long enough in this country to be accustomed to measures which we consider to be unjust, and not to be moved to any exhibition of heat or temper on what is after all another of those measures which I consider to be unjust. Our experience has been so bitter that we are fully innured to Acts which we conceive to be unjust, but which are nevertheless forced upon us. I now come to the argument of my friend, the Hon'ble Member in charge. As I said when I started, I say again, that I knew that no useful purpose would be attained by my seeking to meet these arguments, and I feel also the deepest sympathy for my friends whom I am detaining from their mid-day meal, but I would only remind them of what we all read in our youth of the state of things in England, 'that wretches hung that jurymen might dine'. Though we are going to be hung, I will not detain you very long from your lunch. I will take the first part of the arguments of my friend opposite which has great force. I admit that, when Bombay has accepted under similar circumstances a principle without protest, the onus lies upon us who object to that principle to establish a case why we should not accept it. Well, is my friend correct in laying down that proposition? When Bombay accepts an exception to the general law of the country, the onus lies upon my friend to show that circumstances have arisen in other parts of the country also, to accept the same change from the general law. If that law of Bombay were the general law of the country, then certainly the onus would have been upon me. But it lies upon my friend to show that the circumstances of Bombay and of Calcutta are similar. Throughout the long debates that have taken place over this Bill and the discussions that took place in the Select Committee, I have never heard one word said by any Member on the side of Government as to the identity of conditions between Bombay and Calcutta justifying similar treatment in both cases. Sir, the very introductory speech of Lord Sandhurst was that Bombay was in the midst of a calamity, that Bombay did not see its way to meet that calamity, that the people of Bombay did not know where they were. Are we in the same position? Then, again, is the resident population of Bombay and of Calcutta the same and of the same character? Have you, in the island of Bombay, the same residential population that you have got in the city of Calcutta? Are you ignoring that in Calcutta we have not got our great mills in the city, but that they lie outside the municipal area, though Calcutta is the centre of the jute industry; that we have not got in Calcutta the same system of *chauls* as they have got in Bombay? Do we not read in the newspapers of the collapse of houses, *chauls* and huts in Bombay, the like of which we have seldom or never seen in Calcutta? Is the condition of the over-crowding of the working classes in Bombay and Calcutta the same, for your mill-hands do not live in Calcutta? Plague has not dealt so severely with Calcutta as it has done with Bombay. Are the residential house-owners the same in Bombay as in Calcutta? My friend has said that he does not rely upon our death-rates. Here are 6,000 deaths in a year from preventible causes, *e.g.*, cholera, small-pox, plague, etc., which his Improvement Scheme will charm away as with the wand of a

[*Mr. Filgate; the President; Babu Bhupendra Nath Basu.*]

magician. What are you doing with the millions of deaths that take place from malaria which is a preventible disease? Have you introduced into Bengal a sanitary measure of any great importance in which the Government has done anything in the interests of the poorer population or has laid out a single pice beyond distributing a few quinine packets? What have you done in the way of preventing the silting up of rivers?"

The Hon'ble MR. FILGATE said:—

"Sir,—May I rise to a point of order? We are not dealing with the question of sanitation of Bengal, but clause 14 (*2a* [*now 9* (*1*)] of the Schedule to the Bill."

THE PRESIDENT said:—

"I think that the Hon'ble Member is out of order."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"I say therefore that if the number of preventible deaths is the sole test for depriving any class of men of the right vested in them under the existing statute law, the case of Calcutta is much stronger than any other part of Bengal or India. Sir, my friend says that small-pox has disappeared from England. Is it only owing to sanitation, or is the disappearance rather due to the universal or the general adoption of vaccination, and also to the opening out of roads and to the growth and spread of education amongst the working classes? My friend says that there is no reason to believe that climatic conditions protect England from the ravages of cholera. My friend forgets or overlooks, in the heat of the argument, I hope, and not deliberately, that cholera is not an epidemic disease in those northern latitudes, that instances of cholera imported into England and other northern countries can easily be traced to causes conveyed through ships and other channels, and as soon as the conditions which gave rise to these outbreaks disappear, the outbreaks disappear. In my country it is different, and, therefore, the cases upon which he relied do not furnish me with those arguments that he seeks in support of this innovation in the law that he proposes.

"Then, again, Bombay is at least just in its injustice. My friend is not. He has not satisfied us, and I am quite sure that he has not satisfied himself, as to why the suburbs of Calcutta, the outlying parts, should be treated differently from Calcutta itself. My friend, the Hon'ble Hr Filgate, has made to us a most moving appeal; but much of that appeal loses its value when he admonishes his Bihar colleagues by saying that they, in Bihar, need not fear the introduction of a change like this; they are quite safe in their holdings, for there the Improvement Act will not step in to deprive them of the 15 *per cent.* Well, I can understand my friend making that appeal, taking his stand upon that safe pedestal. If he were a resident of Calcutta, I believe he would have sung to a different tune, but I go on. Much as I admire my friend's speech, I think it is lacking in the knowledge of local circumstances. It is true, indeed, that some of my friends on our side are representatives of the great landed interests in Bengal. They have come here as such; they have been invited by Government to take their places in the Councils of their country, but I hardly think that so far as we are concerned, we can be regarded in any sense as being the representatives of the landlords, either of Calcutta or of outside; but apart from that, my friend has said that in giving the history of this legislation in European countries, I have not gone far enough. I believe what my friend meant was that I have kept back what would have been against my case. My friend says that the law of Berlin is different. Is it the same law that he is seeking now to propound and is asking us to accept? Well, I was not speaking on my own authority. I do not pretend to have a knowledge of the German language; but I was speaking on the authority of Sir Henry Maine and Sir Fitzjames Stephen who said that the law on the continent of Europe was the same as in England in regard to acquisition of property. I did not say in my opening speech that the statute law of England provided for a 10 *per cent.* compensation. In England people know much better to

manage their own affairs than by means of statutes of Parliament; they have a much better knowledge as to how to conduct their own matters themselves, and there the practice had grown up of allowing 10 per cent. on the value. But what I seek to impress upon my friends is this, that the value in England is not the market-value of the property; it is the value to the owner that makes a great deal of difference; and even under the latest Acts, the Town Planning Acts and the Housing of the Poorer Classes Acts (I am reading from Browne's Law of Compensation as to what is the basis of valuation). 'The market-value thus obtained', he says in his note on clause 21 of the Housing of the Working Classes Act, 'is the market-value to a person desiring to sell.' That is what it is. If that principle were adopted in this Act, much of the hardship that we anticipate probably would be minimised. Here you are acquiring property from me who, at the present moment, may not be desiring to sell. In valuing you must take into consideration all the facts which would go to establish a satisfactory price for the property. You have hedged in your law with conditions which only serve to diminish the value, and therefore the safeguards that obtain in your country you have not provided here. Where are your arbitrators, where are your juries? For the arbitrators, for the juries, you have given us a Tribunal. Then, Sir, one of my friends here said, why should any consideration be shown to the holders of house property in Calcutta and why should they benefit at the expense of the public? Much has been said of the $\frac{5}{8}$ths contribution by Government and other sources. If the figures are at all scrutinised with fairness, even to the limited extent to which I was able to explain yesterday, Calcutta will contribute much more than $\frac{3}{8}$ths of the cost. Did he ever consider as to how much of the rate of Calcutta is realised from the house-owners of Calcutta? I suppose it will be news to him when I tell him that out of 65 lakhs of rates in Calcutta—how much do you think they will contribute? Half you think: much more than half. They contribute 50 lakhs, while the occupiers contribute 15 lakhs only. Well, Sir, when the Improvement Scheme comes into force, there is no reason to anticipate that they will contribute in any other proportion Then, whose money after all is it that you are using? It is the money of the very same people from whom you are seeking to withhold this privilege, if I may say so. But more than that. The Hon'ble Mr. Bompas says, why should we make a gift of 75 lakhs to the land-owners of Calcutta? Is it a gift? Are all the moneys that are being paid under the Land Clauses Act, or Acts similar to those throughout the world, merely in the nature of gifts? Is it nothing for me that you take away from me the house, which may not be my ancestral house in the sense that my friend the Hon'ble Mr. Bompas understands it in England, but quite an ancestral house in our sense, where my father and grand-father were born and where I and my children have been brought up? Is that nothing in my country? When distress comes, what is it that a man here does? He disposes of the moveables, and then what does he do? As you all know, the only insurance that my people possess for their women-folk, when they themselves are dead and gone, against times of adversity, against neglect of children, are the ornaments with which they endow their wives from time to time. They would sooner part with a bone of their body than with these ornaments which are given by their husbands in moments of affection and for considerations which are peculiarly traditional. But they part first with their moveables, then with their immoveables, then the ornaments of their wives and daughters-in-law, and last, when all these have gone, when nothing remains but to walk out on the streets, they sell their paternal dwelling-houses. Is that nothing to us? Are traditions, sentiments, customs and associations to be absolutely ignored, and is the East to be put on the same level with the West, when you come to consider these questions of Government and the administration? Are you quite sure that in all your processes of administration you put the East on the same level with the West? Do you not always say, and sometimes with reason, that conditions so differ that different systems must be adopted; and are the conditions so alike in the West and the East, in London and in Calcutta, in Birmingham and in Bara Bazar, that you will not apply the system, which England has adopted but one which is much more drastic? For I come at once to what my friend has said—I hope he did not say it for the purpose of throwing dust into our eyes—that the only land

that would be taken up would be that required for the purpose of improvement schemes? Did he mean to say that he would exclude all lands not situated in insanitary areas?"

The Hon'ble MR. BOMPAS said :—

"We have got a definition of improvement schemes in the Bill."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I was just going to say what an improvement scheme is. It includ everything that you are going to do in connection with insanitary areas, etc., whereas in England the things are expressly stated where compensation is to be allowed.

"My non-official friends are going to vote against us. They have expressed their intention so to do, but will they try to understand if what is proposed to be done in Calcutta is similar to what prevails in London and in Birmingham, and will they see if the safeguards are the same, though the conditions are not similar? I am not quite sure, but I believe those who are associated with me in my opposition to this provision of the Bill will accept and admit in their entirety every provision that the London County Council has thought fit to incorporate in its working under Parliamentary Statutes for the carrying out of the different improvements. We are quite willing to admit and accept the principles that have been introduced into Birmingham, provided you give us the safeguards, provided you give us the same machinery; we have nothing more to say."

A division was then taken, with the following result :—

Ayes 12.

The Hon'ble Babu Bhupendra Nath Basu.

The Hon'ble Rai Sita Nath Ray Bahadur.

The Hon'ble Sir Bijay Chand Mahtab, K.C.I.E., Maharajadhiraja Bahadur of Burdwan.

The Hon'ble Maharaja Manindra Chandra Nandi.

The Hon'ble Babu Deba Prasad Sarbadhikari.

The Hon'ble Mr. J. G. Apear.

The Hon'ble Mr. Golam Hossein Cassim Ariff

The Hon'ble Babu Hrishikesh Laha.

The Hon'ble Mr. K. B. Dutt.

The Hon'ble Rai Sheo Shankar Sahay Bahadur.

The Hon'ble Rai Baikuntha Nath Sen Bahadur.

The Hon'ble Mr Dip Narayan Singh.

Noes 29.

The Hon'ble Mr. F. A. Slacke, C.S.I., *Vice-President.*

The Hon'ble Rai Kisori Lal Goswami Bahadur.

The Hon'ble Mr. R. T. Greer, C.S.I.

The Hon'ble Mr. D. J. Macpherson, C.I.E.

The Hon'ble Mr. E. W. Collin.

The Hon'ble Mr. C. J. Stevenson-Moore.

The Hon'ble Mr. J. H. E. Garrett.

The Hon'ble Mr. T. Butler.

The Hon'ble Mr. E. P. Chapman.

The Hon'ble Mr. J. G. Cumming.

The Hon'ble Mr. H. Wheeler, C.I.E.

The Hon'ble Mr. B. K. Finnimore.

The Hon'ble Mr. S. L. Maddox.

The Hon'ble Mr. B. C. Mitra.

The Hon'ble Mr. G. W. Küchler.

The Hon'ble Mr. L. F. Morshead.

The Hon'ble Mr. C. H. Bompas.

The Hon'ble Mr. F. L. Halliday, M.V.O., C.I.E.

The Hon'ble Mr. C. E. A. W. Oldham.

The Hon'ble Nawab Saiyid Muhammad, Khan Bahadur.

The Hon'ble Mr. C. F. Payne.

The Hon'ble Mr. H. J. Hilary.

The Hon'ble Kumar Sheo Nandan Prasad Singh.

The Hon'ble Lt.-Col. Grant-Gordon, C.I.E.

The Hon'ble Mr. Norman McLeod.

The Hon'ble Mr. F. H. Stewart.

The Hon'ble Mr. W. J. Bradshaw.

The Hon'ble Maulvi Saiyid Zahir-ud-din.

The Hon'ble Mr. T. R. Filgate.

The following Members were absent:—

The Hon'ble Maharaja Sir Prodyot Kumar Tagore, Kt.

The Hon'ble Maharaj-Kumar Gopal Saran Narayan Singh.

The Hon'ble Babu Kirtanand Sinha.

The Hon'ble Raja Rajendra Narayan Bhanja Deo.

The Hon'ble Mr. Saiyid Wasi Ahmad.

The Hon'ble Maulvi Saivid Muhammad Fakhr-ud din.

The Hon'ble Mr. M. S. Das, C.I.E.

The Hon'ble Babu Mahendra Nath Ray.

The Hon'ble Kha Bahadur Maulvi Sarfaraz Husain Khan.

The Hon'ble Babu Braj Kishor Prasad.

The Hon'ble Babu Bal Krishna Sahay.

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy abstained from voting.

The result of the division was, *ayes* 12, *noes* 29, and the motion was therefore lost.

514. The Hon'ble Babu Bhupendra Nath Basu moved that, for clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill, the following be substituted, namely:—

(2*a*) To sub-section (*2*) of section 23, the following shall be deemed to be added, namely:—

"except where the land acquired is actually required for carrying out an improvement scheme under the Calcutta Improvement Act, 1911, in which case a sum equivalent to ten *per cent.* on such market-value shall be awarded."

The Hon'ble MR. BOMPAS said:—

"I oppose this amendment, Sir. It is such a small variation from the original motion that I cannot distinguish between them. Furthermore, it will not be always possible to distinguish whether lands will be actually required or will be only affected by the operation of the Improvement Scheme. Land is taken up along a new road with the double object of providing convenient building sites and also of recoupment."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"This motion of mine is this, as I was explaining to the Hon'ble Members in connection with my preceding motion, that the 15 *per cent.* should be retained. This is the second stage at which I say that let 15 *per cent.* be retained except for lands actually required for improvement schemes, in which case allow us 10 *per cent.* All our arguments have already been advanced, and it is no use repeating things that have already been said. I put it to the vote."

The motion was then put and lost.

515. The Hon'ble Babu Bhupendra Nath Basu moved that, for clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill, the following be substituted, namely:—

(2*a*) for the word "fifteen," in section 23, sub-section (*2*), the word "ten" shall be deemed to be substituted.

He said:—

"In this amendment there is no question of any uncertainty, for I simply desire to substitute '10' for '15', following the precedent of the English Acts."

[*Mr. Bompas; Babu Bhupendra Nath Basu; Babu Deba Prasad Sarbadhikari; Babu Hrishikesh Laha.*]

The Hon'ble MR. BOMPAS said:—

"Sir,—I resist this amendment also, because 10 *per cent.* compensation is not the universal practice. The English practice varies from the 10 and 15 *per cent.* in different parts of the country. I see no justification in English practice for the alteration of the *percentage*, and the sense of the Council is that we should follow the precedent of Bombay."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"What I say is that I have erred on the side of moderation. It is quite true that the English practice is from 10 to 15. However, I took the minimum limit."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

517. The Hon'ble Mr. Apcar to move that the words "in the Calcutta Municipality and", in clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill, be omitted.

516. The Hon'ble Babu Deba Prasad Sarbadhikari moved that, for clause 14 (*2a*) [*now 9 (1)*] of the Schedule to the Bill, the following be substituted, namely:—

(*2a*) To sub-section (*2*) of section 23, the following shall be deemed to be added, namely:—

"Provided that compensation at such rate, less than fifteen *per centum*, as the Tribunal may determine may be allowed with respect to any area which is stated in a certificate granted by a salaried Presidency Magistrate or a Magistrate of the first class to be unhealthy."

He said:—

"Sir,—Much has already been said that could be said in support of this amendment. I realize that the time at our disposal is very short. We see from the papers that Your Honour is to leave town to-night, and therefore it is our anxious desire to do nothing that will take the discussion over the day and stand in the way of the Council passing the Bill. In that view of things I do not make any observations in support of the amendment, but simply move it."

The Hon'ble MR. BOMPAS said:—

"Sir,—I oppose this amendment on the ground that I opposed the principal amendment. There are some amendments which propose to distinguish between sanitary and insanitary areas. My answer to all these is that the problem in Calcutta is a single problem. The original proposal was to deal with insanitary areas by constructing 15 miles of roads. That scheme has been enlarged; but the problem is still a single problem, and the works to be undertaken will all form part of one scheme.

The motion was then put and lost.

518. The Hon'ble Babu Hrishikesh Laha moved that the words "and is required for the execution of such scheme" be inserted after the figures "1911" at the end of clause 14 (*2a* in the Schedule to the Bill.

He said:—

"I beg to move that the words 'and required for the execution of the scheme' be added to the clause after the figures '1911' (clause (*2a*) [*now (1)*] of clause 14 (*now 9* of the Schedule.

"What I mean by this amendment is that when land is acquired for any improvement scheme, solatium need not be given for that quantity of land, as has just been determined by the Council, but if excess land is taken under clause 41 (*now 42*) of the Bill, for the purposes of recoupment only, not affecting the *main* object of the scheme, I do not see any reason why statutory

allowance of 15 per cent. should not be paid for such excess land. It is but just and fair that additional compensation should be given for the compulsory acquisition of that excess land, when the Board will derive considerable profit from it."

The Hon'ble MR. BOMPAS said :—

"Sir,—It does not seem to me that it will be equitable to accept the principle contained in this motion. Land taken for the execution of a scheme is all required for the scheme, in the practical sense of the word. Suppose a road is to be constructed and we acquire land on both sides of the line. Some portion of the land is acquired for the purpose of recoupment and some for the purpose of laying out the road. I do not see any reason why the owner in one case should receive more favourable terms than in the other; or rather I see no reason why in one case he should receive less favourable terms that he does in the other. It is purely a private concern of the Trust with which he has no concern. His rights are precisely the same in each case. As I said before, in the majority of cases it would be very difficult to say whether roadside land is taken primarily with the object of laying out building sites, or with the object of recoupment. In most cases these two objects will come into play, and for this reason this amendment is objectionable"

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn :—

The Schedule.

Clause 10 B (now 2).

518A. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that the words "who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen *per centum* mentioned in section 23, sub-section (2)", in lines 6 to 10, clause 10 B (*now 2*) of the Schedule to the Bill, be omitted.

518B. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the words "and who is not entitled to receive the additional sum of fifteen *per centum*, mentioned in section 23, sub section (2)" in lines 7 to 10 of clause 10 B (*now 2*) in the Schedule to the Bill, be omitted.

518C. The Hon'ble Babu Deba Prasad Sarbadhikari moved that at the end of the proposed sub clause (*iv*) for section 11 of the Land Acquisition Act, in clause 10 B (*now 2* of the Schedule to the Bill, the following be added, namely :—

and also all costs and charges such person may be put to in acquiring his future habitation and in removing thereto.

He said :—

"The clause, as it stands, provides for a very infinitesimal portion of the cost. In doing so it concedes the principle that something more than the actual value should, under the circumstances of the case, be paid. The amendment seeks to carry the principle a little further, and in order to alleviate admitted suffering, the extra charges that a person may be put to in acquiring and removing to his future habitation ought to be paid to him. The framers of the Land Acquisition Act of 1870, in spite of marked division of official opinion on the subject, made larger concessions in the matter of stamp duties on the instruments under which compensation was payable, and this was done in spite of influential opposition like that of the then Commander-in-Chief and another high official who went the length of voting against the Government on the question."

The Hon'ble MR. BOMPAS said :—

"Sir,—I resist this amendment because the object sought to be attained is already covered by the existing law. Section 23 (1) (*fifthly*) of the Land

[*Mr. Bompas; Rai Sita Nath Ray Bahadur.*]

Acquisition Act runs as follows:—'If in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change) shall be taken into consideration in determining the amount of compensation.' That seems to me to meet the case that this present amendment covers. But this present amendment is too widely worded to be safely admitted into the law. All costs and charges are too vague terms. The Hon'ble Member does not say how his charges, etc., for removing will be determined. What is already provided in the law can only be safely allowed."

The motion was then put and lost.

The Schedule.

Clause 12 (now 4).

518D. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause 12 (*now 4*) (*2*) of the Schedule to the Bill be omitted.

He said:—

"I simply move my amendment, Sir. I do not like to adduce any argument in support of my motion."

The Hon'ble MR. BOMPAS said:—

"Sir—This provision of the Bill is taken direct from the Calcutta Municipal Act, and provides that where land is to be acquired on the ground of unhealthiness, then we may proceed with it in the same way as we would proceed in the case of an arable land, *i.e.*, take possession of it straightaway. If it is once found that the property is unhealthy, and it is being acquired in order to put an end to the unhealthy conditions, surely it is sufficient reason for expediting matters and letting the acquisition take effect at once; otherwise there will be some months' delay in obtaining the orders of the Collector."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn:—

518E. If Motion No. 518D be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that the words "so unhealthy as to be dangerous to human life" be substituted for the word "unhealthy" in the last line of the proposed sub-section (*4*) for section 17 of the Land Acquisition Act, in clause 12 (*2*) (*now 4*) of the Schedule to the Bill.

The Schedule.

Clause 14 (3) [now 9 (2)].

519. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause 14 (*3*) (*now 9 (2)*)] of the Schedule to the Bill be omitted.

He said:—

"Sir,—All that I can say is this, that the modifications made here are intended to reduce the market-value of the property. They do not find any place in the Land Acquisition Act, and they have been introduced in order to reduce the amount of compensation to be paid."

The Hon'ble MR. BOMPAS said:—

"Sir,—I cannot possibly accept this amendment for moving that the whole of the clause be omitted because there are provisions in the clause to which the body has made any objection. No one has objected to sub-clause (*3*). Therefore I resist the amendment which seeks to omit the clause as also."

The motion was then put and lost.

[*Rai Sita Nath Ray Bahadur; Mr. Bompas.*]

The Schedule.

Clause 14 (3) [now 9 (2)] (a).

520. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause (*a*) of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 [*now 9 (2)*] (*3*) of the Schedule to the Bill, be omitted.

He said:—

"It ould be most unfair to property-owners and prejudicial to their interests, to provide that the market-value of the land to be acquired should depend on and be judged by the disposition, that is, the then condition and disposition of the land at the date of the publication of the declaration. The fallacy of this argument will be apparent from the following illustration. Suppose there is a piece of garden-land in Cossipore, comprising an area, say, of 10 bighas, a small portion of which has been let to different tenants at the rate of annas 6 to 8 a cottah per mensem, and the average aggregate rental of the garden in question is, say, Rs. 500 a year. Now, as the major portion of a garden-house always remains unoccupied and unutilised, it would be quite reasonable if this piece of land were acquired (to award, according to the principle of law laid down here, Rs. 12,500 for compensation, calculating it at the rate of 25 times the gross rental, which is about Rs. 500). This is the value which the owner would get according to the present disposition of the property; but from the several recent deeds of sale it can be proved that no land can be had thereunder on an average, say, Rs. 400 to 500 a cottah

"A garden-house at Cossipore on the banks of the Hooghly, with no fixed income, but which is occasionally let for Rs. 200 or Rs. 300 a month, but which almost all the year round remains vacant and unutilized, was sold the other day for more than two lakhs of rupees. It was the other day that a piece of land measuring about 50 bighas, situated in a suburban municipality, admirably suited for a mill, but which was at present utilised for growing paddy only, having been acquired, the owner was awarded about Rs. 50,000 as compensation; but if the property in question came to be acquired by the Calcutta Improvement Trust, then the august Special Tribunal will be quite justified in awarding a lump sum of, say, Rs. 1,000 at the most, instead of Rs. 50,000; for, according to the present disposition of the property, as its income was little or nothing, the sum of one thousand rupees would be enough for the property. Now, from the several illustrations I have cited, in which nothing has been exaggerated or extenuated, it would be clear that if the land acquisition clauses are altered and modified in the way suggested here, it will have the effect of compelling property-owners virtually to make gifts of their valuable properties, which are every year increasing in value, for the benefit of the Improvement Trust. In the name of equity and justice, I ask the Hon'ble Members of the Council, who are all men of business and own properties, some here and others in the mufassal or in England, whether you can conscientiously acquiesce in a proposition of law which will go to sacrifice the unfortunate owners of property in Calcutta and the suburbs at the altar of the Improvement Trust. In the words of Sir Bamfylde Fuller, the Improvement Trust is a great measure—it requires a sacrifice, and the landlords are the sacrificed."

The Hon'ble Mr. Bompas said:—

"Sir,—This sub-clause deals with the difficult question of valuation of land, and I hope that we shall not be called upon to debate this question in all its length. I would justify the clause primarily on the ground that it stands in the Calcutta Municipal Act and has been found serviceable in the acquisition of land in the Calcutta Corporation for the last 12 years. It is necessary to meet certain cases where the valuation claimed is extremely exorbitant. A case was mentioned when the discussion took place on the Municipal Bill. A piece of land covered with tumble-down cowsheds was acquired for the

Medical College Hospital and the owner appeared in court with a plan showing it as covered with fine houses suited for the residence of Europeans and asked to be compensated on the basis of the profits which he would derive from such houses. It is intended to defeat the device of purely hypothetical development of the land. That is to say, valuation will not be made on what the owner might have got if he had built a shop or a house on the land, but on the normal value of the land. There is considerable safeguard in the sub-clause (*a1*) (*now b*). In connection with the land acquisition in Calcutta, there will be a great number of men who will be using all their wits to secure money—there is a whole class of speculators, particularly in land acquisition cases, who will do all they can to defeat the operation of the law, and in the interest of the public, we want this sub-clause as a protection against excessive claims."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"I am afraid it is no use advancing any arguments, but at the same time I do think it desirable that we should place before the Council what we think about this matter. This clause does not occur in the Land Acquisition Act. It does not occur in the Bombay Act upon whose model we are proceeding. It does not occur in any of the English Acts. It does occur, as my friend says, in the Municipal Act, which is an Act of limited operations for the purpose of land acquisition. This is an Act of a very different nature, so that the analogy of the Municipal Act wholly fails, because land acquisition itself independently is not an operation of such an extensive nature, and then I quite agree with my friend that it is desirable to stop fictitious cases. But there is another class of cases which, I believe, he has overlooked, or of which perhaps he is not aware. In our part of the town there are large *bustee* lands from which we derive, say, a rent of Rs. 2 or Rs. 3 per cottah; but if this *bustee* land, as it is, was sold immediately for the purposes of a building, it will sell at Rs. 1,000 a cottah. It may be argued that this land from which you are receiving Rs. 2 or Rs. 3 a cottah may be valued upon the return you are getting from the hut, and not for the value of the property which you may get in the open market. What I feel, and my hon'ble friend will agree with me, is that this result will take place. We have the authority of the Bombay Act, and why should we not follow it with reference to its essential features? The market-value, to which my friend, the Hon'ble Rai Sita Nath Ray Bahadur, referred, I have not the means to do anything with. There are *bustees* the owners of which are too poor to put up houses, but these lands would be readily saleable as dwelling sites. Belgatchia would be easily available for mills, but the owner has not the means to do this, and is letting it out for purposes of growing paddy. But why should we deprive him of the marketable value? The difficulty arises according to the disposition at the time of the acquisition. I quite agree, and I am prepared to concede, that fictitious claims may be bolstered up for hypothetical price which should not be entertained."

The Hon'ble MR. PAYNE said :—

"SIR,—The Hon'ble Babu Bhupendra Nath Basu has referred to the *bustees* in Calcutta in which the rent assigned is small, but the land can be sold for building purposes at a higher rate. I think that in such cases undoubtedly, if the land can be sold as it stands for a higher rate than that, the higher rate would be the market-value of the land, and the compensation would be granted on that rate and not merely on the *bustee* rate."

The Hon'ble RAI SITA NATH RAY BAHADUR said :—

"Sir,—I cannot resist the temptation of citing one or two concrete cases. There is a *bustee* in Shambazar which belongs to a member of my family and which is generally let out at Rs. 2-8 per cottah. Calculating it on that sum, the Trust will fix the price at Rs. 750, but it was only the other day that the Hon'ble Babu Bhupendra Nath Basu offered Rs. 2,000 for each cottah of land in that *bustee*. I also beg to refer to the personal experience of the Hon'ble Member of the Executive Council; he owns considerable land in Halisahar, which was formerly let out for a small sum, but now he has let it out to the jute mills, it being very convenient for them: he is getting several

lakhs of rupees. If it had been acquired under the Trust formerly, he could not have expected to get more than Rs. 100 for 100 bighas. I will give another concrete case. I own a *bustee* at Bhowanipur where the land is let out at Rs. 2 or Rs. 3, and, according to the Tribunal, I will not get more than Rs. 700 or Rs. 800 for that land, but I have been offered Rs. 2,000 for each cottah of the land, and I have refused to sell it. Can we, after these facts, acquiesce in the provision of the law which would go to deprive us of our property by one-fourth of the real value?"

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

521. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that clause (*a*) of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (3) [*now 9 (2)*] of the Schedule to the Bill, be omitted.

The Schedule.

Clause 14 (3) (b) [now 9 (2) (c)].

522. The Hon'ble Babu Hrishikesh Laha moved that clause (*b*) of the proposed section 23 (*3*) for the Land Acquisition Act, in sub-clause (*3*) [*now (2)*] of clause 14 (*now 9*) of the Schedule to the Bill, be omitted.

He said:—

"I beg to move that clause (*b*) [*now (c)*] of the proposed section 23 (*3*) of the Land Acquisition Act, in sub-clause (*3*) [*now (2)*] of clause 14 (*now 9*) of the Schedule to the Bill, be omitted.

"The owners of properties will consider the operation of this clause to work considerable hardship. It assumes that property holders knew, two years before the declaration was published, that their property would be required for the purposes of the Improvement Scheme, and it therefore lays down that any improvement made during that period should not be taken into account for the purpose of assessing the fair market-value. The onus will be thrown upon the property-holders to prove their *bonâ fides* that such improvement was not made with a view to get a higher price when the land would be acquired by the Board. Improvement is looked upon by this clause with suspicion; and any improvement, however necessary it may be, would be construed as made with a view to extract money by raising the price of the property. It is impossible for any owner to know two years before the declaration that his land would be taken for the purposes of the Trust, and the clause, as it now stands, throws upon him the most difficult task of proving a negative. *Malâ fides* should not be presumed, but the person who alleges *malâ fides* must prove them. To endeavour to reduce the fair market-value of any property by an enactment would be putting the Board to an advantageous position at the cost of the property-holder. The clause, if adopted, will be unjust, unfair and injurious to the interests of a large section of the community and will be a fruitful source of litigation and waste. On these grounds I move for its omission."

The Hon'ble Mr. Bompas said:—

"I oppose this amendment. This sub-clause also comes from the Calcutta Act, and it is a question relating to what the acquiring authority should have to prove in any case of a suspicious nature. Of course the burden of proving *bonâ fides* is to be upon the owner of the property. The ordinary respectable owner of property, if he has carried out any improvements of an ordinary nature will, I apprehend, have not the slightest difficulty whatever in proving to the Collector of the Tribunal that his act was done in good faith. If it is of an ordinary every-day nature, there is nothing suspicious about his conduct. He might say to the Collector, 'I have added this story to this house, because I

have grown rich or because my family has increased.' And any reasonable man in the Tribunal will accept his explanation. But if you put the burden of proof, so as to show bad faith, on the Trust, it would be almost impossible. Mr. Surendra Nath Banerjee said, during the debates on the Calcutta Municipal Act, that he felt very strongly that to lay the burden of proof on the Corporation to show bad faith was to impose upon it an impossible task. Anything of that kind would be impossible. Nobody is in a better position to prove good faith than the party concerned. If the improvements made by the house-owner are capable of bearing the light of day, he has only got to make the reasonable explanation, and any member of the Tribunal will accept it. But there are cases in which suspicions may arise. There may arise cases of suspicious improvements made to extract compensation: this clause will protect the Trust from paying compensation in such cases. We have not been told that this clause, which has been in force in Calcutta now for 12 years, inflicts any hardship. Therefore I resist this amendment."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"Sir,—I desire to associate myself with the arguments that have been adduced by the Hon'ble Maharaj-Kumar Hrishikesh Laha, though for reasons I have already stated I do not wish to take up the time of the Council by making lengthy observations."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

523. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause (*b*) [*now* (*c*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 14* (*2*)] of the Schedule to the Bill, be omitted.

524. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the words "six months" be substituted for the words "two years", in line 4 of clause (*b*) [*now* (*c*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 14* (*2*)] of the Schedule to the Bill.

He said:—

"I desire to reduce the limit of time from two years to six months. We have often been told that the proceedings of the Trust will be conducted with secrecy, and there is no likelihood of any one knowing as to what improvements the Trust are going to undertake. Two years is, therefore, far too long a time, for which we have no warrant in the Land Acquisition Act nor in the Bombay Act. I think six months ought to be quite enough a time to meet all the apprehensions of the kind that have been referred to by the Hon'ble Mr. Bompas."

The Hon'ble MR. BOMPAS said:—

"Sir,—In the original Bill the time fixed was three years, and in the Select Committee it was reduced to two on the basis of the Calcutta precedent. Six months seems to be too short a period to be of any practical effect. There is no magic in two years, but it is the period that stands in the Calcutta Act. Therefore I would not wish for a change."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn:—

525. If Motion No. 519 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that for the words "unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act," at the end of clause (*b*) [*now* (*c*)] in clause 14 (*3*) [*now 9* (*2*)] of the Schedule to the Bill, the following be substituted, namely:—

"if it be proved that the improvement was made not *bonâ fide* but in contemplation of proceedings for the acquisition of the land being taken under this Act.

526. The Hon'ble Mr. Apcar to move that for the words "unless it be proved that the improvement was made *bond fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act," at the end of clause (*b*) [*now* (*c*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 9* (*2*)] of the Schedule to the Bill, the following be substituted, namely:—

> if, in the opinion of the Tribunal, such improvement was made with a view to obtaining or increasing compensation under this Act.

He said:—

"Your Honour,—I have no objection to the principle of this sub-clause, nor do I take exception to the period of two years reserved, within which the owner should account for any improvement, but when it is two years I object to a man being considered dishonest and for him to prove that he is honest. On these grounds I move my amendment. The Hon'ble Member in charge says that any ordinary respectable owner of property would be in a position to prove that he is acting *bond fide*. The proceedings should be conducted in the ordinary way, and the onus of proving that he is not fraudulent should not be placed on an owner. I, of course, know, Sir, that this clause is included in the Municipal Act, but I do not take the Municipal Act to be the last word on the subject, and I hope that, as years go by, greater fairness of dealing will be accorded in the law to those who will be affected under this Bill."

The Hon'ble Mr. Bompas said:—

"I oppose this amendment because it only covers up difficulties. It says—if, in the opinion of the Tribunal, such improvement was made with a view to obtaining or increasing compensations,—but says nothing about the burden of proof. It cannot be that the burden of proof should be on the Trust; if there is any ground for doubt, then the man would be called upon to say why he made particular improvements. He is the only person who can give that information, and if his explanation is satisfactory, it will be accepted by the Tribunal. I submit that no reasonable property owner, who has, in the ordinary course of affairs, made some improvements in his house, will have the slightest difficulty in proving that he has done it in the ordinary course of business."

The motion was then put and lost.

The Schedule.

Clause 14 (3) (d) [now 9 (2) (e)].

527. The Hon'ble Babu Bhupendra Nath Basu moved that clause (*d*) [*now* (*e*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 9 2*)] of the Schedule to the Bill, be omitted.

The Hon'ble Babu Hrishikesh Laha said:—

"I rise in support of the amendment which has been moved by my hon'ble friend, Babu Bhupendra Nath Basu. This amendment also stands in my name.

"Over-crowding no doubt has some prejudicial effect upon health, but there was no official standard, as was adopted in England, as regards allowing a certain number of persons to live in a room in each dwelling. The number composing the family affects the question of over-crowding in a very marked degree, and it would not have been possible to enforce this or any other standard in this country, where the zenana system prevails. Frequent visits of inspection would have been considered intolerable, and a poor parent, with a large family, who lives in a cheap and a small dwelling, would have been the greatest sufferer. Considering the peculiar circumstances of the people, it was very probably considered not at all desirable to lay down any such standard and now to make over-crowding the ground for reducing the market-value of a building is, to say the least, not consonant with the principles of justice and commonsense. By what standard is over-crowding to be measured? I find

in the Encyclopædia Britannica (Cambridge edition), 'a standard has been officially adopted in England based on the number of persons to a room in each dwelling, and the facts in relation to this standard are embodied in the census return.' It is a much better criterion than the state of 'density' or number of persons per acre, which is very deceptive, for an apparently low density may conceal much over-crowding within walls, and an apparently high one may be comparatively guiltless. The room density is the important thing in actual life.

"Let us see what they do in Germany, which is considered the great exemplar and the great stronghold of municipal socialism. We are struck by the remarks made by Mr. T. C. Horsfall in his work entitled, 'The Improvement of the Dwellings and Surroundings of the People—the example of Germany.' He says, 'If it be assumed that a dwelling is crowded when, for every room which has a fire-place, there are more than six persons in the dwelling and for every two rooms with fire places there are more than ten persons, then, in the year 1880, of 198,640 dwellings in Berlin, 22,890 were crowded. And if we assume that a dwelling is crowded, if there are more than two persons for every room with a fire-place, then more than a third of the population of Berlin live in crowded dwellings'. The only remedy for such over-crowding is to remove the inhabitants remorselessly from their houses, and this condition is incapable of fulfilment by persons who have any sympathy at all for their fellow-creatures. The first preliminary to such removal is an ample supply of new houses at rents within the paying power of the displaced persons; and unless this is done, the municipality has no right to remove persons from their houses. Mr. Horsfall further says, 'The fulfilment of the conditions needed to ensure that there shall be an adequate supply of new wholesome houses is the most important of all the subjects which have to be attended to, either in a town which has an increasing population, or in a town which, though its population is not increasing, has congested areas which need to be wholly or partially cleared, or which has a large number of houses which for any cause need to be destroyed'. The pivot on which the entire question hangs is therefore the supply of new wholesome houses, before the provision for over-crowding could be enforced; and as the municipality failed or even did not contemplate to provide house accommodation, no advantage should be given by this Bill to reduce the value of property on this ground. Neither the standard of 'room density' nor that of the number of persons per acre was ever introduced here, and I am not aware that over-crowding is the only reason for a higher death-rate, and so long as it is not proved, it would be a grave injustice to penalize the property owners. In this I am confirmed by the remarks made by Mr. Horsfall that the causes of the high death-rate are 'not the over-crowding of dwellings, though that, is a very marked and serious evil, nor excessive drinking, nor licentiousness, nor betting and other forms of gambling', but 'the chief cause is that, while all these evils exist, there is nothing to counteract the effect of them' and 'that the towns lack the pleasantness which is the most important condition of cheerfulness, hopefulness, physical and mental health and strength for all classes—for the poorest as well as for the richest.' We have therefore yet to know whether heavy mortality is connected only with over-crowding and not with the food, clothing and general condition of the people. Unless that is proved to demonstration, no reduction should be made in the value of the property; and as the Calcutta Municipality has made over-crowding a ground for raising the tax, it will be not at all fair to leave this question to the decision of the Board who are interested in getting the price of the building reduced. It would not, I think, be out of place to mention that in this country over-crowding is not so great an evil as it is in England and does not call for such stringent measures as are adopted in English Statutes. The reason is not far to seek. In my opinion the marked difference in the climatic conditions and the modes and habits of living of the people of the two countries should be taken into account. Here poor and middle-class people during the greater part of the year live and sleep in the open air and are used to it, whereas in England such a mode of living is fraught with danger to life and is not possible owing to the rigour of the climate. This clause should therefore be expunged."

[Rai Sita Nath Ray Bahadur; Mr. Bompas.]

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"With reference to innovations proposed in sub-clause (*d*) [*now* (*e*)], I beg to observe that under section 455 of the Calcutta Municipal Act the Chairman of the Corporation has full power to abate over-crowding in dwelling-houses and other buildings and huts, but not having exercised the power vested in him by law, but on the contrary having allowed the Assessor of the Coporation to assess all over-crowded buildings and huts at their full valuation due to such over-crowding and having reaped the benefit of such over-crowding by realising much larger amounts in the shape of rates than what would have been ordinarily payable if there was no over-crowding, it would be unfair to the owners of such buildings and huts to turn round and say that the market-value of such buildings should be determined by the rents which would be derivable from such buildings if they were occupied by only such number of persons as would be accommodated in them without risk of danger from over-crowding.

"It is well known that buildings in Burra Bazar are to some extent over-crowded, and some of them fetch very high rents, amounting to sums varying from Rs. 300 to Rs. 8,000 a month. Suppose it becomes necessary to acquire a building in Burra Bazar, the annual rent of which is Rs. 12,000: under the Land Acquisition Act, the amount of compensation payable would be about three lakhs of rupees *plus* the statutory allowance of 15 *per cent.*; but under sub-clause (*d*) [*now* (*e*)] of this Bill it might be said that, if the house had not been over-crowded, the average yearly rental would have been about Rs. 5,000 or Rs. 6,000 a year, and as such, the amount of compensation should be considerably less.

"I beg to submit that the additions proposed to be made to section 23 would have the effect of enormously reducing the compensation which would otherwise be payable under the Land Acquisition Act. It would be expedient to deal with Calcutta people differently from other people in other parts of India."

The Hon'ble MR. BOMPAS said:—

"Sir—I am surprised that five members should have supported the abolition of this sub-clause (*d*). We have accepted sub-clause (*c*) [*now* (*d*)], which says that 'if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy,' then that excess market-value shall not be taken into consideration. This sub-clause makes a similar provision that, if the market-value of the land has been enhanced owing to rents being taken from an excessive number of occupants, then that enhanced value shall not be considered, and in the English law and in the Bombay Act, which is copied from the English law, these two clauses form only one clause, it is merely a matter of draftsmanship that here it is two. The position of the two cases seems to me to be exactly the same.

"This sub-clause has been copied from section 49 (*b*) of the Bombay Act. Over-crowding is one of the most terrible evils. I am not questioning what particular amount of over-crowding is unwholesome, but every one admits that it is a fruitful source of every kind of moral and physical evil. The Chancellor of the Exchequer said the other day to a crowded audience that he would like to see the land-owners and house-owners who draw profit from over-crowding treated in the same way as receivers of stolen goods, because he saw no moral difference between them. It is true, as the Hon'ble Rai Sita Nath Ray Bahadur has said, that the Corporation has power to reduce over-crowding. That seems to me to strengthen my argument. If a building is very much over-crowded, the Corporation has power to apply to a magistrate and the magistrate has power to interfere. In that case it seems to me clear that if any profit is made from that building, the owner, however, has no right to ask for excess compensation on the ground that he has been guilty of deriving this illegal profit. The clause requires that the over-crowding shall be such as to be dangerous to health. This is a fact which is to be proved by the acquiring authority. What is more, the General Committee of the Corporation have power to lay down general rules in pursuance of their local knowledge as to

what shall be regarded as over-crowding in Calcutta. It has never been held impossible to determine what unwholesome over-crowding is. I see therefore no justification for making any difference between sub-clause (*b*) [*now* (*c*)] and sub-clause (*c*) [*now* (*d*)]."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I am sorry, Sir, that I have to add to my friend's surprise by making myself the sixth member objecting to this clause, and I regret that my friend should have been calling the representatives of the Corporation names, and some very strong names, specially while the Hon'ble Mr. Maddox is here. That the Corporation is a receiver of stolen property is, I say, a very strong expression, although an extra vigorous and ultra-socialistic Chancellor of the Exchequer has been using that and other opprobrious terms with regard to property and property-owners in general in convenient forgetfulness of the past. I do hope that it will be long before we follow the vigorous parlance and emphatic action such as St. Stephen's has been familiarised of late and such as anti-property platforms have long been accustomed to. Otherwise the results predicted by the Hon'ble the Maharajadhiraja of Burdwan, not with regard to his own class, but with regard to the Frankenstein that all super-socialistic legislation is bound to raise, which have been so much resented, would not be far in coming. I am sorry that official Members are not following us with regard to the embargo upon length and are making us break the canon I have laid down for myself, considering the late hour of the day. If the Hon'ble Mr. Bompas's quotation of the Right Hon'ble Mr. Lloyd George has any application to the case, it can have application not only to the landlord but to the Corporation also—and to the latter with double force, because of causes that I must detail to the Council in spite of the lateness of the hour, for it is a matter of history and not a matter of fiction at all. Not very many weeks ago and after this Bill was introduced in Council, I had occasion to appear professionally before the municipal authorities with regard to a new building erected on Harrison Road. The assessment was on the basis of assumed over-crowding, such as the Corporation in spite of its powers condones and connives at. I objected to it and pointed out to this clause and said that, 'you must not assess the house like this and put a premium upon over-crowding by making your assessment so high as to compel the man to recoup himself by over-crowding.' The municipal authorities would not, however, listen, for they have always insisted that the assessment shall be on that basis, because it has been the accepted basis. I was plainly told that they knew nothing as to whether a clause like this was going to be passed, though already it is in the Municipal Act. As the Municipality has not refrained from receiving what has been called stolen property by participating in and insisting on assessment on the basis of over-crowding, which they are still insisting on as the basis of assessment with regard to new houses that are being built along Harrison Road and other parts of Burra Bazar, it seems to us that the provision being already in the Municipal Act has not very much charm in itself and ought not to be re-enacted in spite of the strength of language and the supreme surprise of the Hon'ble Member in charge."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—I shall say a few words as I was responsible for moving this amendment, and the language that my friend has used makes it incumbent upon me to justify my position. I am not one of those who would advocate over-crowding in any sense, but, as my friend, the Hon'ble Babu Hrishikesh Laha, pointed out, over-crowding might have a quite different meaning from what it has got in England; and when my friend imports the language of the Chancellor of the Exchequer he applies the doctrine of the fur-coat to India, because we do not live in closed rooms as English people do. The question of over-crowding is entirely different; even as it is, I do not justify it. Then what happens? I think my hon'ble friend, Mr. Payne, will enlighten my friend on this subject. In a *bustee* the tenants take the land from the owner at a certain rate, and then they build huts and sub-let them. When the assessing officer comes round, he does not value upon the rate at which the owner has let it out, but finds

out how much the tenants make out of the *bustee*, and that is the basis upon which he proceeds. He not only legalises it, but puts a premium upon it, because he wants his rates enhanced. I remember a case in Amratolla Street, in Burra Bazar, where a gentleman let his house for a certain rent for a certain period, and he did not wish that his house should be over-crowded, because he was a man of artistic tastes and wealthy. The municipal assessor came and assessed the house at a rate it would fetch if it was over-crowded. The owner said that he did not wish it to fetch so much rent. The assessor said, 'You may not wish it, but the rent of the next house is so much and we shall assess upon that basis.' If I am assessed and if I am paying upon it, not only with your connivance, but I am assessed upon compulsory over-crowding, why is it that you should penalise me for this purpose—and then there is another consideration, a consideration which does not apply, but which would strike a student of political economy. I have got a plot of land which I let to you for Rs. 20 on a condition that it is over-crowded now—more people being there than would be proper. Where are these other people to go? If you would not allow over-crowding, accommodation for these people must be found somewhere else. Apart from other questions, the question of political science is a question which does not arise and which cannot affect the question of value; because if the Corporation did not only encourage over-crowding but made profits from it for these very many years, my rent would not have gone down. It would have remained where it is because the men excluded would have accommodation—they would pay me higher than I receive, so that I think my friend was not right in expressing the surprise that he did. That surprise was only due to his ignorance of the state of things in Calcutta."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:—

528. The Hon'ble Babu Hrishikesh Laha to move that clause (*d*) [*now* (*e*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 9* (*2*)] of the Schedule to the Bill be omitted.

529. If Motion No. 519 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that clause (*d*) [*now* (*e*)] of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3* [*now* (*9 2*)] of the Schedule to the Bill, be omitted.

530. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause (*d*) [*now* (*e*)] of the proposed section 28 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 9* (*2*)] of the Schedule to the Bill, be omitted.

531. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that clause (*d*) [*now* (*e*)] of the proposed section 28 (*3*) for the Land Acquisition Act, in clause 14 (*3*) [*now 9* (*2*)] of the Schedule to the Bill, be omitted.

Clause 14 (3) [now 9 (2)], new sub-clause (f).

532. The Hon'ble Rai Sheo Shankar Sahay Bahadur moved that at the end of the proposed section 23 (*3*) for the Land Acquisition Act, in clause 14 (*3* [*now 9* (*2*)] of the Schedule to the Bill, the following be added, namely:—

> (*f*) The market-value of the land, if situated in the Calcutta Municipality, shall until the contrary is shown, be presumed to be twenty-five times the annual value of the property, as entered in the Municipal assessment-book."

He said:—

"Sir,—This new provision which I wish to add is taken word for word from the Calcutta Municipal Act, section 557, proviso (*d*). It appears that all the provisions of the Calcutta Municipal Act with reference to acquisition and disposal of land and buildings have been embodied in this Bill, but this provision which furnished a rough-and ready presumption (of course a rebuttable presumption of 25 years' purchase has been omitted from our Bill. The Council may be aware that this provision which has been omitted and which I recommend for

insertion was introduced into the Calcutta Municipal Act after a good deal of consideration and after a good deal of discussion. The debates in the Council show that, although the feeling of the official Members was that 25 years' purchase was more than the owner was entitled to, it was accepted to prevent hardship. I am tempted to quote a small extract from the speech of the Hon'ble Sir Edward Baker in the Council in this connection.

"His Honour said, 'Babu Kallynath Mitter said before the Building Commission that 30 years should be given. Why? He has given no reasons. The only reason why we should be justified in giving 25 years' purchase or taking that as the presumption, is in order to soften the severity of the law of land acquisition. We know that in Calcutta there is a strong prejudice against giving up and being deprived of one's ancestral house, and it is a feeling which the Legislature will do well to take into consideration. I think that we ought not to reduce the number of years' purchase below 25, not because it would not be absolutely just, but because it would be felt as a hardship; but to give anything more than 25 years would be, I think, unfair to the rate-payers and unfair to the Corporation.'

"These are weighty words, and in the language of Sir Edward Baker I appeal to this Council to take into consideration the feeling, the prejudice, the sentiment, or whatever you may call it, of the people of Calcutta with respect to their unwillingness to give up their ancestral houses. Treat them with respect and not disregard them as the Hon'ble Mr. Bompas has asked you to do. I also ask the Council, in the words of Sir Edward Baker, not to reduce the number of years' purchase below 25, as it would cause hardship.

"Sir, the Calcutta Municipal Act has been in force for 12 years, and the people have come to understand this rough-and ready rebuttable presumption of 25 years' purchase as a fair and just method. It will be therefore a hardship—a great hardship—if a different mode of calculation is adopted by the Board or by the Tribunal."

The Hon'ble MR. BOMPAS said:—

"Sir,—I am not sure whether any other Members will support the motion. If they do not, I need only deal with it briefly. The Hon'ble Member has moved it on the principle that this clause finds place in the Calcutta Municipal Act. But I must say that, having read the debate on this clause when the Calcutta Municipal Act was under discussion, it seems to me that Dr. Ashutosh Mukhopadhyay made out an overwhelming case against it. It is *primâ facie* unfair, and I find on inquiry that it has worked unfairly. Take a common case: two buildings may each rent at Rs. 100 a month, there being demand for the accommodation which they supply: their municipal valuation will be the same: but one may be an old building on the verge of falling down and the other may be newly built of the best material; by this rule of thumb the market-value of both is taken to be the same. Unoccupied lands are very lightly assessed by the Corporation, and therefore, under this rule, will not be paid for at their real value. Moreover, whatever may be said for holding the Corporation bound by its own valuation, there is no conceivable reason for holding a third body like the Trust bound by it."

The motion was then put and lost.

The Schedule, Clause 16 (now 11).

533. The Hon'ble Rai Sita Nath Ray Bahadur moved that clause 16 (*now 11*) of the Schedule to the Bill be omitted.

He said:—

"I simply beg to move my amendment, Sir."

The Hon'ble MR. BOMPAS said:—

"Sir,—I will resist this amendment, and I have no doubt that the Hon'ble Member will have no objection to withdraw it when he learns that I am going to accept amendment 535. I am sure that will please him immensely."

[*Mr. Bompas; Babu Bhupendra Nath Basu.*]

The Hon'ble Mr. Bompas also said:—

"Sir,—There are some amendments which seek for the omission of the sub-clauses one by one. I propose that they may be taken first."

The discussion of motion No. 533, and also of the following motion, was then postponed:—

534. The Hon'ble Rai Sheo Shankar Sahay Bahadur to move that clauses (*1*), (*3*) [*now* (*2*)] and (*4*) [*now* (*3*)] of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

535. The Hon'ble Babu Bhupendra Nath Basu moved that clause (*1*) the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

The Hon'ble Mr. Bompas said:—

"Sir,—I accept this amendment, because the principle is not so important in Calcutta as it is in Bombay."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

536. The Hon'ble Babu Hrishikesh Laha to move that clause (*1*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

537. The Hon'ble Babu Deba Prasad Sarbadhikari moved that clause (*1*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

538. If Motion No. 535 be not carried, the Hon'ble Babu Bhupendra Nath Basu to move that the words "shall be presumed to be the amount so awarded" be substituted for the words "shall not, unless the Tribunal otherwise directs, be deemed to be greater than the amount so returned," in lines 7 and 8 of clause (*1*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill.

539. If Motion No. 537 be not carried, the Hon'ble Babu Deba Prasad Sarbadhikari to move that the words "accepted or fixed by the Corporation" be substituted for the words "so returned," in line 8 of clause (*1*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill.

533. The Hon'ble Rai Sita Nath Ray Bahadur to move that clause 16 (*now 11*) of the Schedule to the Bill be omitted.

540. The Hon'ble Babu Bhupendra Nath Basu moved that clause (*3*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

He said:—

"This is a new clause 24A (3), and it is not taken from the Bombay Act but from the Calcutta Municipal Act."

The Hon'ble Mr. Bompas said:—

"It is in the Bombay Act as well as in the English law."

The Hon'ble Babu Bhupendra Nath Basu said:—

"I wish only to call my friend's attention to this fact. The clause runs thus: 'if in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair.' I really do not understand

this, because if you are acquiring a house which is not in a proper sanitary condition, the house loses so much in value."

The Hon'ble MR. BOMPAS said :—

"Sir,—I think the purpose of extending this provision, which is derived from the English law, is quite clear. There are many ways in which property is valued for land acquisition purposes. Valuation on the rental value is, I think, the favourite method. Owing to pressure of population, an old and insanitary house may be bringing in the same rent as the house next door, which is new and sanitary. In such cases it will be practicable to fix the value of the property as if it were in a sanitary condition and in a good state of repair. And if the cost of such repair is deducted from the amount of compensation it will be quite reasonable, for in the long run it is the same thing as if it were repaired and put into a sanitary condition by the owner himself."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"Well, Sir, my experience is the other way."

The motion was then put and lost.

The following motion was, by leave of the President, withdrawn :—

541. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause (*3*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

542. The Hon'ble Babu Bhupendra Nath Basu moved that clause (*4*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

He said :—

"This I also object to as being very wide: 'If, in the opinion of the Tribunal, any building which is used or is intended or is likely to be used for human habitation.' Well, Sir, my fears are these. It is all very well to say that this is a provision in the English Act. I frankly confess that up to the present moment we do not trust your Tribunal. It may be that the Tribunal will justify itself, but for the present it does not."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said :—

"I have got a similar motion, and I desire to associate myself with the Hon'ble Babu Bhupendra Nath Basu in his objection. It was perhaps an oversight on the part of the draftsman that he did not also exclude the cartage when he wanted to exclude the demolition cost from the value."

The Hon'ble MR. BOMPAS said :—

"Sir,—This sub-clause has reference to such an extreme state of affairs that it can scarcely give rise to reasonable objection. We have dealt with the provisions of the Bill which relate to cases where it may be somewhat difficult to draw a line. But here we have got the case that a building which is inhabited by human beings is really unfit for human habitation. In such a case the law provides that you must pull down the house and sell the materials. A man has no right to be compensated for an uninhabitable building on the basis that he has let it to tenants."

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn :—

543. The Hon'ble Babu Deba Prasad Sarbadhikari to move that clause (*4*) of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

The Hon'ble Rai Shiba Shankar Sahay Bahadur to move that clauses (*1*), (*3*) [*now* (*2*)] and (*4*) [*now* (*3*)] of the proposed section 24A for the Land Acquisition Act, in clause 16 (*now 11*) of the Schedule to the Bill, be omitted.

[*Babu Hrishikesh Laha ; Mr. Bompas.*]

544. The Hon'ble Rai Baikuntha Nath Sen Bahadur to move that the word "Court" be substituted for the word "Tribunal," wherever it occurs in clause 16 (*now 11*) of the Schedule to the Bill

The Schedule.

New clause 16C (*now 14*).

545. The Hon'ble Babu Hrishikesh Laha moved that after clause 16C of the Schedule to the Bill the following be inserted, namely:—

New section 49A, 16D. After section 49 the following shall be inserted, namely:—

"49A. The provisions of this Act shall not be put in force for the purpose of acquiring any land which forms part of a garden attached to a dwelling-house or is otherwise required for the amenity or convenience of any dwelling-house."

Non-acquisition of land required for convenience of dwelling-house.

He said:—

"My submission is that this proviso is absolutely necessary for restricting the unlimited power of the Board to acquire land for the purpose of any scheme. There would have been no such necessity if the Board had been invested with power to acquire no more land than would be absolutely necessary. The Bill gives the Board power to acquire more land in order to recoup the cost of the main scheme, so, under the name of recoupment, any land and any quantity of land may be acquired for the purpose of subsequently disposing it of at a profit. I therefore proposed certain amendments to this clause while the Bill was in the Select Committee, and that which I now propose is a very moderate one indeed. Some restriction is necessary. A *carte-blanche* cannot be given to the Board for the acquisition of land, and in this connection I have followed the principle of English law; for even in England, where the people are so much advanced in knowledge and experience, such restriction has been recognised as may be observed in section 5 of the Development and Road Improvement Funds Act, 1909. It might be said that the aforesaid Act applies only to provincial towns and not to big cities, but the principle acted upon cannot be ignored, whether the town be a big or a small one. If such a provision can be made in England, there is all the more reason why a similar provision should be introduced here where the rights of property are so much respected. The people of this country are very much attached to their homes, and some provision should be made for their protection from the arbitrary operation of the Land Acquisition Act. Property holders are no doubt liable to make some contribution towards the cost of the scheme, but it would not be at all fair that the whole burden should be placed upon their shoulders. The proviso to this section which I have proposed will, I hope, meet with the approval of the Council."

The Hon'ble Mr. Bompas said:—

"Sir,—Whatever may be the intentions of the Hon'ble Member in trying to insert this clause into the Bill, he can scarcely expect that the Council will accept it as it stands. There is nothing in the Act to prevent the acquisition of dwelling-houses. And if you may acquire dwelling-houses, there is no reason why you should not acquire gardens attached to them. We have made a new provision in section 49 of the Land Acquisition Act, by which if a garden is acquired, it is made perfectly clear that you must acquire the attached house also. The Hon'ble Member need have no fear that the garden will be acquired and the house left. The Hon'ble Member has referred to English precedents, and I must trouble the Council for a moment or two by explaining why the precedents are not applicable here. We have two precedents—section 45 of the Housing of the Working Classes Act and section 5 of the Development and Road Improvement Act. The former deals with the acquisition of land for the housing of the working classes. A municipality may acquire land and build houses on it if the conditions under which the working classes live are unsatisfactory. When the Bill was discussed in the House of Lords the provision referred to by

the Hon'ble Member was inserted. It was not unreasonably contended that you should not destroy the amenity of one man's house, merely to provide a more comfortable house for another man. Under the other Act the Road Board may acquire any land for 220 yards on either side of a new trunk road, *i.e.*, a strip of land a quarter of a mile wide. That is a very wide power, and the gardens and parks attached to country houses in England are among the glories of the country. It was decided that it is wrong under the plea of material development to ignore æsthetic considerations and the amenities of life. If the Hon'ble Member quotes the Development Act, he should adopt it as a whole. Under that Act no additional compensation is allowed when land is acquired. If this amendment is carried, much of the work of the Trust would be rendered impossible. One of its important duties is to lay out new suburbs, and it is obvious that, in doing so, it will be constantly necessary to acquire garden lands. I will again refer the Hon'ble Member to section 49 of the Land Acquisition Act which fully covers his case."

The motion was then put and lost.

546. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "Chairman" be substituted for the word "President," wherever the latter word is used in the various clauses of the Bill, as meaning the President of the Board.

He said:—

"In reading through the various clauses of this Bill I have been a good deal embarrassed in distinguishing between the President of the Board and the President of the Tribunal, and without impairing the dignity of either functionary, for the sake of convenience I desire to call one the Chairman and the other the President by way of avoiding comedies of error."

The Hon'ble MR BOMPAS said:—

"I accept this amendment, Sir, and in consequence I would move the next amendment, No. 547."

The Hon'ble BABU DEBA PRASAD SARBADHIKARI said:—

"I am glad of the concession and feel like the squirrel of old who was able to assist in ever so slight a manner in improving the Adam's Bridge of old and the Adamantine of to-day. Like the self-same squirrel we shall bear the stripes and strokes on our back to the end of creation."

The motion was put and agreed to.

547. The Hon'ble Mr. Bompas moved:—

(1) that clause 2 (*h*) be omitted; and

(2) that after clause 2 (*b*) the following be inserted, namely:—

(*bb*) [*now* (*c*)] "the Chairman" means the Chairman of the Board.

The motion was put and agreed to.

Clause 61C (now 71) of the Bill.

The following motion (postponed from the meeting of the 19th August 1911) was then taken up:—

318. If Motion No. 311 be not carried, the Hon'ble Rai Sita Nath Ray Bahadur to move that clause 61C (*b*) be omitted.

The Hon'ble MR. BOMPAS said:—

"Sir,—Amendment No. 318 above was left over to be moved after the amendments on the Schedule. It can be moved now."

[*Rai Sita Nath Ray Bahadur; Babu Deba Prasad Sarbadhikari; Mr. Wheeler; Babu Bhupendra Nath Basu.*]

The Hon'ble RAI SITA NATH RAY BAHADUR said:—

"I beg to withdraw it, Sir."

The motion was then, by leave of the President, withdrawn.

The Preamble to the Bill.

548. The Hon'ble Babu Deba Prasad Sarbadhikari moved that the word "certain" be inserted before the word "persons," in line 5 of the Preamble to the Bill.

He said:—

"It is only a verbal amendment. Limitations have already been put in regarding the objects of the Act, and it can no longer be a question whether the introduction of 'certain' in the Preamble is necessary or not. However, this again is a matter for the department to consider."

The Hon'ble MR. WHEELER said:—

"This amendment affects the preamble of the Bill and not any of its clauses. In the course of the present discussion in Council it has been decided that the Board should undertake re-housing schemes only for persons of the poorer and working classes. It may, therefore, be argued that we should qualify the word 'persons' as used in the preamble, but if it is desired to make any mention of specific classes of persons, I would prefer to do so in the way proposed in Amendment No. 549."

The Hon'ble DEBA PRASAD SARBADHIKARI said:—

"In that view I have no objection in withdrawing Amendment No. 548."

The motion was then, by leave of the President, withdrawn.

549. The Hon'ble Babu Bhupendra Nath Basu moved that the words "of the poorer and working classes" be inserted after the word "persons," in line 6 of the preamble to the Bill.

The Hon'ble MR. WHEELER said:—

"There is no harm in accepting that."

The motion was put and agreed to.

The following motions were, by leave of the President, withdrawn:—

550. The Hon'ble Mr. Apcar to move that the words "of the poorer classes" be inserted after the word "persons" in line 6 of the preamble to the Bill.

Clause 2 of the Bill.

551. The Hon'ble Babu Deba Prasad Sarbadhikari to move that after clause 2 (*d*) the following be inserted, namely:—

(*dd*) the expression "good faith" has the same meaning as in section 52 of the Indian Penal Code.

552. The Hon'ble Babu Bhupendra Nath Basu moved that after clause 2, (*g*) the following be inserted, namely:—

(*g1*) the expression "persons of the poorer and working classes" means persons whose income, either singly, or collectively as members of a joint family, does not exceed one thousand rupees a year.

He said:—

"Does my friend think it would be necessary? I was simply seeking to define this. I want to ascertain the views of Government in this matter."

The Hon'ble MR. WHEELER said :—

"There are two or three amendments which seek to define the meaning of the expression 'persons of the poorer and working classes,' but I would advise the Council to leave it undefined as is the case in the English Act. Looking to the conditions of this country—the existence of joint families and of races with different standards of living—it would be exceedingly difficult to frame one definition which will cover all cases, and if an attempt were made to do so, I think we would only restrict the Bill undesirably. In fact the deversity of definition shown in the amendments themselves shows that the difficulty is a real one."

The Hon'ble BABU BHUPENDRA NATH BASU said :—

"In view of what has been said by the Hon'ble Mr. Wheeler, I do not desire to put my amendment to the vote."

The motion was then, by leave of the President, withdrawn.

The following motion was, by leave of the President, withdrawn :—

553. The Hon'ble Mr. Apcar to move that after clause 2 (*g*) [*now* 2 (*j*)] the following be inserted, namely :—

(*g1*) the expression "persons of the poorer classes" means persons whose income does not exceed an average of two hundred rupees *per mensem*, and includes the families of such persons residing with them.

554. The Hon'ble Mr. Bompas moved that the Secretary be directed to re-number the clauses and sub-clauses of the Bill in consecutive order, and to make corresponding alterations in all cross-references thereto.

The motion was put and agreed to.

555. The Hon'ble Mr. Bompas moved that the Bill, as settled in Council, be passed.

He said :—

"Sir,—I have now to move that the Bill as settled in Council be passed, and in doing so I will venture to make a very few remarks. It has been said several times in the course of the debate by movers of amendments that their position is hopeless, that they are like billows beating against a cliff, and, if not actually said by them, it has been implied, and it has been said by the newspapers that represent the views of the section of community which they also represent—that the enlargement of the Council has been a farce, and that the debate has been a sham. Sir, I may be excused for touching a personal note ; I came here as a novice. I am the jungliest of jungly Collectors whose official heart is in the wild tracts of Chota Nagpur where the best years of his service have been spent, and I have watched with the interest of a novice the proceedings in relation to the Bill, and it seems to me absolutely impossible for any one acquainted with the facts to contend that the Government has taken up an unreasonable and impracticable attitude in this matter, or that it could not be moved from the course it had marked out before it. The Bill was introduced in this Council a year ago, expressly with the purpose of allowing time for criticism. Those criticisms were received and considered in the Select Committee for two months. The Select Committee introduced very considerable modifications in the Bill—modifications according to public opinion. In the first place, the number of members of the Trust was raised from 7 to 11 in deference to public opinion. The different characters of type in the Bill will show how numerous were the alterations made in the Select Committee. The High Court's suggestions in regard to the right of appeal from the Tribunal were accepted. The right of pre-emption was recognized and the suggested method of levying the jute tax was adopted. As regards the land acquisition procedure, the control of the land acquisition work has been taken away from the cognizance of the President, and the ordinary

procedure was substituted for it. Costs have been allowed in land acquisition proceedings before the Collector. Section 24 A (*1*) in clause 16 (*now 11*) of the Schedule to the Bill has been omitted, in deference to public opinion. The 15 *per cent.* compensation, about which there has been so much dispute, has been allowed on all lands outside Calcutta and on all lands acquired for purposes other than an improvement scheme. This is a very long list of substantial alterations mainly introduced in deference to public opinion. When the Government has considered and given effect to so many suggestions in Select Committee, surely it is unreasonable to make a charge against it that it has not considered public opinion in the matter of this Bill. In this Council too, many substantial concessions have been made. The suggestion that the building operations of the Trust should be confined to the poorer classes has been given effect to. Provisos have been added to clauses 110 (*now 105*) and 111 (*now 106*) under which the municipal guarantee has been restricted. We have excised from section 24A of the Land Acquisition Act a proviso by which a person was bound by the return of the valuation of his land which he has filed with the municipality—it was a clause to which great objection was raised by the public. Sir, in view of these facts, it cannot be stated that the Government has taken up an impossible attitude, and I will say more; it has appeared to me that it has throughout been present in the minds of the Government that this Council is, to a very large extent, representative of the different interests and opinions of the Province. And it has been with great reluctance that Government has ever risked acting in opposition to the united opinion of the non-official Members of this Council. And I must say further that during this debate it has never seemed open to me to rely on the fact that there might be an official majority behind me to carry anything that Government wished to be carried. Every time I have spoken and the Hon'ble Mr. Wheeler has spoken, we have spoken with the intention of convincing those whose minds were not already made up and who were open to conviction, and I have had clear enough illustration that this debate was not a sham. On one amendment I failed to convince the Council that a clause effected what I believed that it was meant to effect, and the Council at once divided against me 21 to 21. There were therefore at least 21 who were prepared to vote against me. It is possible that if the Council had divided 21 to 21 on all important amendments, this Bill would still have been placed on the Statute Book, but I should have made the motion which I am now making with very different feelings. But when we find the number of the votes cast against the Bill on important amendments hovering in the region of 12 and 13, no one can contend that Government is acting in opposition to the united enlightened opinion of the province."

The Hon'ble Dr. Abdullah-al-Mamun Suhrawardy said:—

"Sir,—Now that the Bill has reached its final stage, I take the earliest opportunity of congratulating the Council on the fact that it has approached the conclusion of this important measure, and I also wish to congratulate the Hon'ble Member in charge of the Bill on his brilliant powers of debate. Thanks to his unquestioned ability, the call for a division on almost every contested question has resulted in a preponderating majority for the Government. At the same time it is my duty to point out to the Council that the signal victory achieved by the Government over the opposition is due not so much to the eloquence and persuasive powers of the speakers on the Government side as to the character and composition of the non-official body. It is true that the unavoidable absence of several non-official Members has considerably thinned our ranks, but I am sure it would not have made any difference were it otherwise. The fact of the matter is, that, unlike the official Members, we do not claim to be proof against the voice of the charmer, or rather that our political consciousness, or rather conscience, has not reached such a stage of development as to permit us to vote solid for or against the Government on any contested question. The passage-at-arms between the Hon'ble Rai Sita Nath Ray Bahadur and the Hon'ble Babu Deba Prasad Sarbadhikari and that between the latter and the Hon'ble Babu Mahendra Nath Ray are illustrations of what I mean. This is but natural, for not only do we represent divers

and varied interests upon this Council, but the very fact of our freedom from official restraint is at once the source of our strength and weakness. Therefore, the victory for the Government was almost a foregone conclusion, and defeat for the opposition inevitable. In spite of this obvious fact the leaders of the opposition fought every inch of their ground, till at last, convinced of the futility of further resistance, not by the efforts and persuasions of the speakers on behalf of the Government, but by successive defeats, they bowed to the inevitable. The attitude of the Government,—the no-surrender attitude of the Government, in the words of the Maharajadhiraja Bahadur of Burdwan—had become abundantly clear from the very first day of the debate, and the public and the non-official Members began to ask themselves—and, I dare say, the official Members also, though for a different reason, must have asked themselves,—the question—'What is the good of all these speeches?' I hope I am not betraying any non-official secret, when I tell you, Sir, that at one time the sense of public disappointment was so keen that it was suggested that the non-official Members should, by way of protest, secede from the Council in a body. Happily, wiser counsels prevailed, and I am glad to say that the feeling of disappointment expressed itself in a more practical form—the abandonment or curtailment of speeches—which has largely contributed to the speedy conclusion of the business before the Council. Occasionally, however, there was a tendency to return to lengthy speeches, for hope springs eternal in the human breast.

"With the modesty becoming in one who, like myself, lacks experience and knowledge of men and affairs, I take the liberty of answering the question—'What is the good of all these speeches?'—both on behalf of the official and the non-official Members. To the official Members, wearied with listening or replying to speeches, I say, that the zeal,—or to borrow once more the phraseology of the Maharajadhiraja Bahadur of Burdwan,—'the tenacity' of the non-official Members, is an unmistakeable proof of the fact that, behind what may appear to be a mere passion for speech-making, there is a genuine body of public opinion which views the provisions of the Bill with alarm, apprehension, and even resentment. Sir, the many vacant chairs on our side may be deemed an indication of indifference, but the presence in our midst this afternoon of the Maharajadhiraja Bahadur of Burdwan, though suffring from fever, is a strong testimony in favour of the genuineness of popular discontent, however unfounded that may eventually turn out to be. No one can for a moment imagine that the Maharaja is present here to-day, simply because he happens to be a large landholder, and represents the interests of the landholding class. Here permit me, Sir, to digress for a moment, and refer to the speech of the Hon'ble Mr. Norman McLeod. I am afraid he misunderstood the Maharaja when he made references to Liverpool and the loyalty of the zamindars. If I understood the Maharaja rightly, he was not asking for a concession on behalf of the zamindars, simply because the land-holding class was loyal and law-abiding, and was the bulwark of British rule in India. He meant to point out the grave danger of attempting to transplant in an oriental country the ideal of the west, regardless of surrounding circumstances. It is the duty of every Member of the Council to point out to you, Sir, that in your zeal to beautify our city and make it worthy of the metropolis of a great empire, you may not be swelling the tide of popular discontent; in your enthusiasm to thrust Western ideas of sanitation down the unwilling throats of a people who care very little for them, you may not be introducing the germs of a disease which you would soon find it beyond your power to kill. Introduction of anarchism has already followed in the wake of western education; let us not entangle ourselves in the meshes of socialism and introduce the complex and complicated labour problems that culminate in riots and bloodshed. In the words of an Urdu poet.

یہ آپ لائیں ہیں مغرب سے سیل آزادی بنائیں ایسی عمارت کے پائیدار رہے

'You yourselves have brought the flood of freedom from the west.

Lay, therefore, the foundations of your edifice deep in the hearts of the people, so that it may endure for ever.'

[*Dr. Abdullah-al-Mamun Suhrawardy.*]

"It is well known that no tax is more vexatious than the income-tax, and no measure more liable to be regarded as an act of oppression, as compulsory acquisition of land. Sir, it is an elementary principle of good government that the attitude of the public should be taken into consideration when introducing a new measure, and that it is an asset of great value and immense advantage to the practical administrator. In this connection I need hardly remind my honourable colleagues of the famous passage in Burke's '*Thoughts on the Present Discontents*,' where that great statesman says that amendments, though lost, soften the rigours of the administration of the country.

"To my non-official colleagues, despondent and dejected, I say, 'What though the amendments are lost? All is not lost.' Amendments may be lost in the Council Chamber, yet the Act itself may work smoothly in practice. Permit me, Sir, here to remind you of the heated debate in this Chamber in connection with the Calcutta Police Bill, which offers a parallel to the Bill before us: that was the first important measure which came up for legislation before Sir Edward Baker, as this is the first important measure before Your Honour; there was the same reference to Bombay and to London, and there were the same solemn warnings. But the comparative calm which has followed the passage of that Bill is ample justification of the supporters of that Act. On that analogy I venture to hope that the present Bill also will prove a success in its practical working. Sir, however liberal my views may be on other subjects, I frankly confess I am yet conservative enough to firmly believe in the good intention of Government in carrying through this measure, and I have not the slightest doubt that, notwithstanding what the Hon'ble Mr. Dip Narayan Singh has said about the suspicion and distrust aroused in the public mind, all my colleagues share in this respect my opinion, if not my optimism, as to the ultimate success of this Bill. But, Sir, much depends upon the *personnel* of the Board and the Tribunal, and I earnestly trust that Your Honour's Government will make such judicious selection in this particular, that those who came to oppose and to scoff may live to bless and praise the supporters of this measure. I, for one, have no hesitation in voicing the view of the great astronomer-poet of Persia, who, in describing quite a different situation, says:—

'Folks of a surly tapster tell,
And daub his visage with the smoke of hell.
They talk of some strict testing of us! But
He's a good fellow, and 'twill all be well.'

"Before I conclude, I would like to add a word on behalf of the constituency I have the honour to represent. It is well known that the only politics which the Muhammadans know is Religion, and Religion spells fanaticism with the masses. My honourable friend, Mr. Halliday, will bear me out that wherever mosques, cemeteries, or shrines are concerned, there is trouble; and once the blood of the masses is up, they are beyond the control of the leaders of the community. It is well known that Moslem zeal and prosperity have always expressed themselves in mosques and religious endowments, and that these properties are inalienable and inheritable. The whole of Calcutta is dotted over with mosques and shrines; even non-Moslem parts of the town are not immune from this passion for mosque-building. Take, for instance, the mosque in Camac Street and that wedged in between the walls of the Medical College Hospital. However desirable it may be from sanitary and æsthetic points of view to remove these thorns in the side of fashionable houses, any attempt to acquire and demolish them is sure to meet with the most stubborn resistance from the masses, and bound to end in bloodshed. I earnestly trust that due regard will be paid to Moslem susceptibilities when any mosques and sacred places happen to be included within any area coming under the improvement scheme, and that a qualified Musalman, preferably a non-official of independence and integrity, well versed in Muhammadan law, will be appointed on the Board, so that, where necessary and possible, he may successfully negotiate with the parties concerned by referring to the texts of the sacred law."

The Hon'ble the Maharajadhiraja Bahadur of Burdwan said:—

"Your Honour, I am sorry that now that the Bill is going to be passed, I have to still withhold my support from it. I hope, Sir, I may be pardoned if I make one or two personal allusions. First of all, before I allude to myself, I must object to the Hon'ble Dr. Suhrawardy's saying that the Hon'ble Babu Bhupendra Nath Basu was the leader of the opposition, and that there were so many seats vacant on our side of the Council. I for one never entered this Council hall with the idea that we formed the opposition; or that there is more than one party here; for, there can be only one party here, and that to see the carrying on of good government.

"Sir, the Hon'ble Mr. Bompas has very kindly referred to my speech which, of course, must have, to a finished debater like himself, seemed to have not been quite in accordance with the dignity of this Council; but I thank Mr. Bompas nevertheless for his reference 'that the Maharaja's loyalty is in his own hands.' Had not the Maharaja been sure of his loyalty, had he not known that that loyalty was safe in his hands, and that he was not like a gramophone machine which unfortunately some zamindars are like, he would certainly not have brought to the notice of the Government, with a certain amount of vehemence, the danger that this adoption of broad principles of equity might involve the Government in. It is not alone the Maharajadhiraja Bahadur of Burdwan, nor the Maharaja of Cossimbazar, or others, that will be affected by this scheme. For though certain noblemen have the misfortune to have landed interests in Calcutta properties, it is not that selfish motive that has made me speak thus; but as one of the few, perhaps, among the land-holding community who feel that in trying to do good, you sometimes forget that there may be far-reaching opposite effects, that I have ventured to speak out. I understand, of course, that in this question of the granting of additional compensation, the hands of the Government of Bengal are to a certain extent tied by the decision of the Government of India; and for that reason I say I do not think that the Government of India are right. I think that if we had had a more liberal-handed Finance Member than my friend, Sir Guy Fleetwood-Wilson, probably we might have fared better. But, of course, I need not discuss that here; I shall soon be going up to Simla and shall there certainly give a bit of my mind on the subject to Sir Guy. Meanwhile we have got no option left; certain broad principles of equity the Government of India have thought fit to insist upon—which broad principles certain of us non-official advisers of the Government have not thought fit to accept. For these reasons, I for one will have to withhold my support from this Bill being passed into law."

The Hon'ble BABU BHUPENDRA NATH BASU said:—

"Sir,—At this late hour of the day and after having so fully and elaborately discussed the provisions of the Bill, it is hardly fair to my hon'ble colleagues that I should enter into any lengthy examination of the Bill or its provisions. In fact, we on our side had entertained a desire not to say anything on the conclusion of the date of this Council, but some observations which have fallen from the Hon'ble Member in charge require a reply from us. My friend, the Hon'ble the Maharajadhiraja Bahadur of Burdwan, has said that there are no sides. I agree with him in the sentiment that has been expressed. We only referred to two sides on a particular question, meaning by sides two different and opposite views. We have ventured to put forward our views with whatever amount of reason we could command in their support. They have not commended themselves to Government. My friend, the Hon'ble Mr. Bompas, has referred to certain modifications in the Select Committee and to certain changes made in the six days' debate that has taken place in this Council. I believe even a novice from Chota Nagpur ought to know that the very object of referring a Bill to a Select Committee means that opposite views are to be considered, and so far as possible—so far as consistent with the policy of Government—such views should be given effect to. That has been the meaning of the Select Committee which represent only a few Members, or rather which is constituted of only a few Members. There are questions of principle, both on the Government side and on the popular side, which have got

to be considered, and those questions of principle are naturally raised before the Council. If it was the intention of the Select Committee and of the Council to adopt a Bill as it is placed before the Council, there would be no meaning in these Committees or in the meetings of these Councils. My friend has referred to some modifications. Well, Sir, we are thankful for small mercies, but what are the modifications? Have they been on any question of principle? Have they been at all even on any great question of detail? The modifications have been very slight; the modifications in this Council, I may be permitted to say, have been of very little value. In the Select Committee there have been some modifications in detail which have only made the Bill, when it is passed into law, more workable. That is all. I will not follow my friend into the details. He thinks he has made a very large concession by giving 15 *per cent.* compensation to lands outside Calcutta. He thinks he has made a large concession by giving to the people concerned their costs in the land acquisition proceedings. This again I may, for the enlightenment of the Members of the Council concerned, say at once, that it is provided by statute in England that costs should be awarded, and there the costs are not left to the discretion of the valuing officer, not to the Collector who, under the law we are going to pass, may refuse the cost if an extravagant demand has been made. There the system is different: there they know how to protect themselves through representatives in Parliament. There the cost must be paid on the valuation. Now, the question of personal discretion of the officer comes into consideration. There is a scale according to which costs may be taxed by the taxing officer of the High Court, so that, what my friend says is a concession, I say is not. If it is looked upon as a concession, then the omission would appear to have been originally intentional; then may we take it that it is intended not to give to the people of this city what is granted by the English law?

"Then my friend says even the 15 *per cent.* is allowed for re-housing schemes, and that it is only not allowed in cases of improvement schemes. My friend, I believe, remembers that improvement schemes include street schemes, that housing schemes for the poor will have to be more largely carried out outside of the Calcutta area, and consequently the concession practically means nothing to the people of Calcutta: so that, after all, the concessions have not been very great. Well, Sir, that has been the attitude of the Government, and we must accept it. My friend has said that there was no reason for us to complain that our position was hopeless. Well, Sir, I will not dwell upon the features of the debate, for facts illustrate theories better than arguments. There was one instance only, truly, when 21 were opposed to 21, upon what I believe one of the grossest abuses of Government powers that could be imagined in the framing of the Bill, namely, of disregarding public interests in the interests of the officer concerned, and I do hope and trust that this will not occur again, for it lowers the prestige of Government.

"Well, Sir, the Hon'ble Member in charge naturally congratulates himself on the support he has had in this Council. We have been unfortunate on our part; eight Members on our side have been absent. I do not say that they are wilfully absent, but they are absent because they find the futility or the inutility of their presence here. Then, again, of the non-official Members, there are six who represent interests which are identical with Government. If my friend had made out a case that he had carried his Bill with the free approbation or free approval of the majority of the Indian Members who will be seriously affected by the provisions of this Bill for upon their shoulders will fall their burden—upon their shoulders is the responsibility,—then certainly my friend could have congratulated himself upon the support which Government has obtained in this Council. It cannot be denied that, so far as those who are directly concerned, the non-official Members and the Indian Members on the Bengal side, they were opposed to the Bill to a man. I have had division lists taken, and so the question of voting is not a secret matter, and therefore I am at liberty to refer to the votes recorded. My warmest and heartiest thanks are due to my friends from Bihar who, at great personal sacrifice, at great personal inconvenience, have

been present throughout this debate on matters which are not their personal concern. It speaks well of the future of my Province, that we have learnt to stand by each other in matters which affect one section of us. To them, again, my heartiest thanks are due, to those of them that have voted with us and have supported us in this dire necessity—and I am glad that they were able to resist the selfish appeal of a Bihar Member, fortunately for us not a Biharee, not to interfere in a matter in which they were not likely to be affected. I wish that that appeal had not been made in this Council. Passing on from this aspect of the question, friends outside have asked us what was the use of wasting our time over a debate, the result of which was a foregone conclusion, what earthly use, and we also felt it. We who have got to earn our daily bread and we asked ourselves, what is the use of this sacrifice? I may assure my hon'ble friends that it is not for the purpose of making speeches that we are here, for we have got platforms much more interesting where we can make our voice heard—where our opinions are shared by a large portion of the audience. To some of us the advice had been tendered by men in our community, also by men not of us, but whose opinion is entitled to the highest weight, that rather than participate in this farce of a debate, we had better withdraw from the debate altogether and secede from the discussion. Well, Sir, we resisted that advice. Whether we have acted rightly or wrongly, it will be for the future to decide. And why did we resist that advice, because after all, we Hindus believe the great precept, which the most inspiring book in the possession of humanity teaches: the Gita of the Hindus says that you have nothing to do with the result, but do your duty: and that has been the motive principle which has guided us in this debate. We have tried to follow humbly, and at a great personal disinclination at times, this solemn injunction given to the Hindu race in long bygone times, and more than that or less than that, for I am free to confess that there has been some personal motive also in sticking to our post in this Council and in trying to place before this Council the views of at least the Indian public over the merits of this Bill. Not personal motives in the sense of obtaining distinctions or titles to which, I am afraid, some of us are looking forward with the advent of the King-Emperor when there will be a large shower upon the deserving, but a personal motive that the Government might not be dragged into a false position, for I am free to confess that I myself, and every one here associated with me in the opposition to this Bill, believe that India's future towards greatness and prosperity lies in ordered progress, and the continuance of British rule, lies in the absence of discontent against that rule: for we believe that that rule has come about under some inscrutable decree of Providence which we cannot fathom, and so far as it has gone, it has been generally for our good. But we see signs, Sir, that there are occasions when the bureaucracy of my country, with their vision obscured by the inebriation of excessive powers, have gone on in courses which we feel will land them in disaster. Sir, on this occasion and in this Council, I do not think it is desirable to go into large questions of policy, but it may be permissible for me to say that the best safeguard of British rule in India is to secure the co-operation of the people in the objects which that rule has set before it for achievement. It may be, Sir, through our lesser knowledge, through our smaller experience, that we may not see so far as you do. It may be, Sir, that we take a perverted, an erroneous, a small-sighted view of questions of which you are able, from your larger experience, from your greater knowledge, to take a wider view, but great Anglo-Indian administrators,—I will not trouble you by quoting from their writings,—have said that it is better in the cause of progress that the Government should go on slowly, more slowly than would be otherwise desirable, in order that it may get the co-operation of the people in what it seeks to do. In your country, when a party is in opposition, it tries to bring to bear all the pressure that it can upon the Government of the day. There is always a compromise which unhappily is wanted in this country, but when that compromise is not attained, the party in opposition has got a chance of being at some time or other the party in power. In my country no such opportunity exists. The Government must consider that it is not only the Government of the day, but it is also the opposition for the day, and therefore a responsibility rests upon you which is much greater than on the Government at home,—a responsibility of